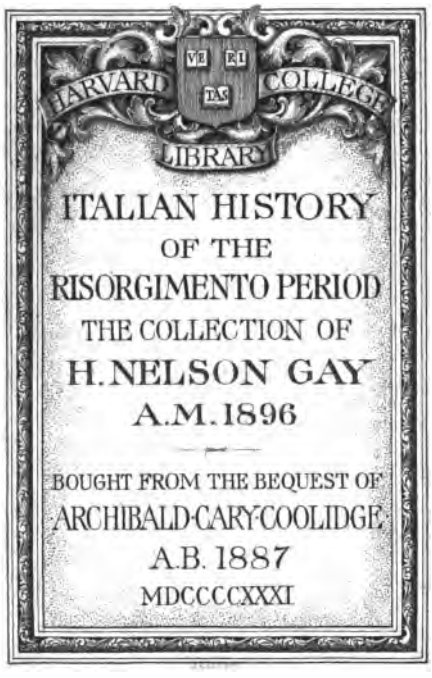

POLITICAL SCIENCE QUARTERLY

A REVIEW DEVOTED TO THE HISTORICAL STATISTICAL AND COMPARATIVE STUDY OF POLITICS ECONOMICS AND PUBLIC LAW

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POLITICAL SCIENCE QUARTERLY.

THE CONCENTRATION OF WEALTH.

WHAT the distribution of wealth is among the people has been an elusive problem, and can now receive only a tentative determination. Little beyond empirical and deductive methods have been at command, with slight reinforcement from statistics, and dependence on these methods is open to the objection that bias of opinion has large room for effect on conclusions. At the present time no direct attack on the problem can be made except by estimates of individual wealth, and thus far these have been based chiefly on assessments of property and incomes and the reputed amounts of large fortunes, with collateral aid from deposits in savings banks and the like. So much is assumed to be known and so little is really known in regard to the amount of the wealth of the rich, that a direct estimate of their wealth involves a large margin for error. It is intended in this article to avoid most of this common field of estimation and to direct attention to the wealth of the poorer class, — a course which is now for the first time made possible by statistics recently published by the census office. With the facts here disclosed it is believed that a more accurate estimate can be made as to the wealth of the poor than can be attained by subtracting the supposed wealth of the rich from the total wealth of the country. The wealth of the richer class may better be determined by subtraction.

The census office has published the results of its investigation of farm and home proprietorship in twenty-two states and territories. In the case of every family the census recorded

whether it owned or hired the farm or home that it occupied, and, in case of resident owners, whether or not the property was incumbered. If an incumbrance existed, its amount and the value of the farm or home were ascertained, and the values and incumbrances have been published both as averages and in a classification of amounts. The states and territories represented are Arizona, Connecticut, Georgia, Idaho, Iowa, Maine, Maryland, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Wisconsin and Wyoming, and the District of Columbia is added. For the present purpose, the figures for these political divisions have been consolidated and applied to the whole country. It is believed that the results correspond closely to the real conditions for the United States, since the different regions where like conditions prevail give returns that correspond well with one another in proportion to population.

In these twenty-two states thirty-two per cent of the farm families and sixty-three per cent of the home families are tenants. Among the farm-owning families thirty per cent carry incumbrances averaging $1,130, on farms whose average value is $3,190; among home-owners, twenty-nine per cent carry incumbrances, with an average debt of $1,139, on an average value of $3,254. Until the census shall determine, it may be assumed that there are 4,500,000 farms in the United States, leaving 8,190,152 families that occupy homes that are not farms.

Computing, now, the number of tenant families, and allowing $150 above debts to each farm-tenant family and $500 above debts to each home-tenant family, we are able at once to set aside fifty-two per cent of the families of the country as worth less than one-twentieth of the nation's wealth, the total amount of this wealth being estimated at about sixty billions of dollars. For the South, containing about one-third of the nation's population, these allowances above debts are too large; they may be too small for some states elsewhere. It is not overlooked that many home-tenant families are worth

considerable property, invested in retail trade, securities and otherwise; but the influence of this must be exceedingly minute in an average embracing the millions of families that are worth little or nothing.

In estimating the wealth of families that own their farms and homes under incumbrance, net values are employed, and I confine myself to properties whose gross value is less than $5,000. Such farms, in the states mentioned above, constitute eighty-two per cent in number and fifty-two per cent in value of all incumbered farms occupied by owners. The corresponding figures for homes are eighty-two per cent for number and forty-six per cent for value. An allowance of $500 above an uncertain indebtedness is made to each family in the class considered, besides the net farm or home value.

Greater uncertainty is encountered in handling the unincumbered farms and homes occupied by owners, because their values are not published. All that can be done is to adopt the figures representing the incumbered properties — a course which probably makes the poorer class of home-owners too large, and also gives to it more home value than it possesses. To each free-farm family of the poorer class $1,000 is credited in addition to the farm value, and to each home family $2,000, after deducting debts of unknown amount. The result of the computations and allowances follows :

WEALTH DISTRIBUTION BY CLASSES.

1,440,000	farm-hiring families, worth $150 above debts of indefinite amount. . . .	$216,000,000
752,760	families owning incumbered farms worth less than $5,000, deducting incumbrance and other debts of indefinite amount, and allowing $500 for additional wealth.	1,359,741,600
1,756,440	families owning free farms worth less than $5,000, allowing $1,000 for additional wealth above debts of indefinite amount.	5,309,589,609

5,159,796	home-hiring families, worth $500 above debts of indefinite amount. . . .	2,579,898,000
720,618	families owning incumbered homes worth less than $5,000, deducting incumbrance and other debts of indefinite amount, and allowing $500 for additional wealth.	1,142,531,550
1,764,273	families owning free homes worth less than $5,000, allowing $2,000 for additional wealth above debts of indefinite amount.	6,749,076,593
11,593,887	families worth.	$17,356,837,343

Otherwise stated, ninety-one per cent of the 12,690,152 families of the country own no more than about twenty-nine per cent of the wealth, and nine per cent of the families own about seventy-one per cent of the wealth. The chief elastic elements of the estimate are the amount of wealth that is credited to each family in addition to its farm or home and the amount of debt with which the family is charged above incumbrance. Opinions will vary in these matters, but the variations will need to be extreme before the preceding conclusion can be considerably changed. In forming an opinion, it should be borne in mind that only the cheaper of the owned farms and homes are represented — those whose value, without regard to incumbrance, is in no case as much as $5,000, and averages about half that amount.

Among the 1,096,265 families in which seventy-one per cent of the wealth of the country is concentrated, there is a still further concentration, which may be indicated by taking account of the wealth of the very rich. The New York *Tribune's* list of 4,047 millionaires affords the best basis for this. Here the unknown quantities are of such magnitude that widely divergent estimates may readily be made. In Mr. Thomas G. Shearman's estimate of the wealth of millionaires, partly based on the assessment of Boston, and published in the *Forum* for November, 1889, the average for the class is set at

about two and a quarter millions ; but it would seem as if Mr. Shearman had considerably overestimated the number of millionaires worth less than $3,750,000 apiece, and, if so, his average is too small. Without going into details, the conclusion adopted in this article is that the 4,047 millionaires are worth not less than ten or more than fifteen billions of dollars, say twelve billions, or about one-fifth of the nation's wealth. This gives an average of about $3,000,000.

We are now prepared to characterize the concentration of wealth in the United States by stating that twenty per cent of it is owned by three-hundredths of one per cent of the families; fifty-one per cent, by nine per cent of the families (not including millionaires); seventy-one per cent, by nine per cent of the families (including the millionaires); and twenty-nine per cent, by ninety-one per cent of the families.

About twenty per cent of the wealth is owned by the poorer families that own farms or homes without incumbrance, and these are twenty-eight per cent of all the families. Only nine per cent of the wealth is owned by tenant families and the poorer class of those that own their farms or homes under incumbrance, and these together constitute sixty-four per cent of all the families. As little as five per cent of the nation's wealth is owned by fifty-two per cent of the families, that is, by the tenants alone. Finally, 4,047 families possess about seven-tenths as much as do 11,593,887 families.

This result seems almost incredible. It is not in accordance with appearances, and if the distribution of well-being is an indication of the distribution of wealth, some great mistake has been overlooked. Yet it is probable that the statement is approximately correct; otherwise, extravagant allowances of wealth must be made to the poorer families of the United States. If a recomputation should give one-third of the wealth to the 11,593,887 families — and it can hardly do more than that, — still sixty-seven per cent of the wealth is owned by nine per cent of the families.

The effect of the method herein adopted is to place about seventy-one per cent of the wealth of the country in the hands

of the owners of farms and homes worth $5,000 and over. Excluding millionaires, the average wealth for the class becomes about $28,000, which at first seems improbable for as many as 1,092,218 families, or about nine out of every hundred. But the improbability disappears when it is known that the average family wealth, still omitting millionaires but including all other families, is about $3,800; so that about $380,000 must find owners among each one hundred families, of which fifty-two are tenants; twelve, burdened with incumbrances, have farms and homes of the cheapest sort; twenty-eight have farms or homes that, while free from incumbrance, are worth but a few thousand dollars each; and eight have farms and homes each worth $5,000 and over.

Collateral support for the foregoing conclusions is found in the probability that more than one-quarter of the nation's wealth is in the hands of private debtors. Until private debts are run through a clearing house, no one can say what the total for the people of the United States amounts to; a wholesale merchant owes a manufacturer, a retail merchant owes the wholesale merchant, customers owe the retail merchant, many of the customers are themselves creditors, and so debts and credits offset each other in a maze of financial operations. It would be foolhardy to do more than take the principal classes of private debts, the amounts of which are known or may be estimated, perhaps without enormous error, and to regard their total as the minimum probable net debt. In the following statement of private indebtedness for 1890, each estimate, except the one for real-estate mortgages, has been included after much hesitation; the item of "other private debts" is not an estimate, but is added to bring up the total to a round number and to account for part of the net debt of trade, manufactures, court judgments, professional services and other items not specifically mentioned. For such possible use as the reader may desire to make of it, the public debt of 1890 is added.

MINIMUM DEBT OF THE UNITED STATES, 1890.

Private Debt.

Quasi-public corporations :		
Steam railways (funded) . . .	$4,631,473,184	
Street railways (funded) . . .	151,872,289	
Telephone companies (funded)	4,992,565	
Telegraph, public water, gas, electric-lighting and power companies (estimated) . . .	200,000,000	
Other quasi-public corporations (to make round total) .	11,661,962	
Total		$5,000,000,000
Private corporations and individuals :		
Real estate mortgages (estimated)	$6,000,000,000	
Crop liens in the South (estimated)	350,000,000	
Chattel mortgages (estimated)	300,000,000	
National banks (loans and overdrafts)	1,986,058,320	
Other banks (loans and overdrafts, not including real estate mortgages)	1,172,918,415	
Other private debts (to make round total)	1,191,023,265	
Total		$11,000,000,000
Total Private Debt		$16,000,000,000

Public Debt.

United States	$891,960,104	
States	228,997,389	
Counties	145,048,045	
Municipalities	724,463,060	
School Districts	36,701,948	
		2,027,170,546
Grand Total		$18,027,170,546

From this it appears that, at the least, about twenty-seven per cent of the wealth of the country is in the hands of private debtors, and about thirty per cent in the hands of public and private debtors. But the private debtors have more than an equivalent of wealth with which to pay their debts. In respect to temporary possession, use and enjoyment, this wealth is distributed among persons and corporations that need it and have it under control. Most of it they use as productive capital and on most of it they pay interest. The query is now suggested whether this interest — and, consequently, all interest together with profit above interest — is not the chief of the more permanent immediate causes of a concentration of wealth.

On the public and private debt alone the annual interest may be reckoned, at six per cent, to be more than one billion dollars — an amount undoubtedly much greater than the profit that remains with the debtors. It is equal to one-twentieth of the annual product of wealth and one-half of the annual savings. While the entire amount of the interest and profit paid every year to residents of the United States cannot yet be estimated, the total is clearly enormous; and the figures expressing farm and home proprietorship, on a preceding page, indicate that this amount is paid by the many to the few. There is nothing new in the computation that interest-bearing principal grows with geometrical progression when the interest is invested at interest; and this investment is more common among the very rich, who already own a large proportion of the national wealth. Such amounts as receive this accretion double every twenty years, if five per cent may be regarded as an average net return to the interest-bearing investments of the very rich.

But while interest seems to be a potent cause of the concentration of wealth, it does not follow that fortunes will continue to grow from small beginnings to the same extent as in the past. Many of the opportunities that have made millionaires must be such as will recur with less frequency, if they do not disappear entirely. The origins of millionaire fortunes have been ascertained by the New York *Tribune*, and

they may be classified as follows, conceding that the classification is not a certain one and that it would be made somewhat differently by others :

CLASSIFICATION OF MILLIONAIRES ACCORDING TO SOURCES OF THEIR WEALTH.

Land and its exploitation	825
Natural and artificial monopolies	410
Agriculture, ranch stock, sugar, *etc.*, often with land	86
Trade and manufactures, often with land and securities	2,065
Interest, profit and speculation not otherwise mentioned, often with land	536
Inheritances, otherwise unexplained	34
Miscellaneous, often with land	70
Unknown	21
Total	4,047

A new country, like the United States in its past decades, affords many opportunities for making fortunes that are rarely or never found in the older countries. The opening of mines, the cutting of forests, the building and consolidating of railways, the rise of land values in growing cities, the expansion of manufacturing and trading demands in a rapidly-increasing population — all these stimulate the initiator to play for great stakes. But the period of such chances and opportunities is transitory; pioneers cannot be followed by pioneers. As time passes fortune-building on the whole settles down to an investment of the savings of a moderate rate of interest. An exception of considerable importance is to be found in the unearned increment of land values. A reference to the *Tribune's* list of millionaires shows how potent a source of their fortune this increment has been, and although its powers may be diminishing, its extinction is not yet in sight, while the results of the census indicate that the land is passing into the ownership of a smaller proportion of the inhabitants.

It is time to pause in this consideration of the concentration of wealth and to question whether wealth saving should be the

chief object of life — whether within moderate limits of saving, the masses of the people are not happier and better qualified to elevate social institutions than they would be if saving were all and living nothing. Does not common sentiment regard an ambition merely to die rich as a most sordid one, and an ambition to round out one's existence with a life well lived, apart from money getting, as one to be commended? The two may go together with the rich, but as far as the masses of the people are concerned, most of them wage and salary earners or employers of productive capital on a small scale, the acquirement of moderate riches is at the price of much self-denial through life. Shall it be moderate riches, or a high standard of living without a competence? Evidently the people of the United States have preferred the latter; the savings of the nation, apparently, are not the savings of the masses of the people. The general appearance of comfort and well-being seen almost everywhere, except among the poor whites and blacks of the South and the poorer factory and tenement-house populations, indicates a disposition to live for the present, even if wealth in the future is delayed, rather than to sacrifice the present for the future. While the few have been getting a principal share of the new wealth, the many, on whom the progress of the nation ultimately depends, have been increasing their material comforts, their enjoyments and their knowledge; and has not this been better on the whole for the United States than such a saving as the French people have practiced?

Perhaps the expenditure in place of saving has gone too far in the United States. It will not do to let the few become exclusively the employers and the creditors. They are not qualified to exercise such a trust; and even if they were, the time must nevertheless come when the masses of the people would find their interest less in raising the standard of living than in promoting their independence by accumulating wealth. Beyond some varying point, cost of living becomes inexcusable extravagance.

But the tendency toward concentration of wealth in this country is promoted not only by the remarkably wide distribu-

tion of well-being, but also by a narrow diffusion of economic instincts, and further still by an insufficient distribution of wealth-saving employments. When the census returns of occupation are published, it may be possible to show somewhat definitely how the distribution of wealth is limited by the nature of occupations. While, all persons included, it is probable that the concentration of wealth has gone too far, yet, excluding most of the very rich, it would seem as if the concentration were largely determined by the defects of human nature and of social life in a rapidly evolving environment. There is a large element of the population unfitted to save or to earn much, and unqualified to use and keep considerable wealth. Until the race improves this class out of existence, there will be an extreme of poverty — the penalty of shiftlessness, improvidence, a want of economy and deficient industry.

The supposed "middle class" of wealth owners exists perhaps as much in appearance as in reality. It is numerically less than the poorer class, but it seems to be much larger, owing to the distribution of borrowed wealth and the remarkable diffusion of well-being that prevails. The probability that the middle class will acquire a larger proportion of the nation's wealth cannot be assured until the rising standard of living is checked; and even in that event not much progress can be made until in the course of time the savings out of wages and salaries and small business undertakings have assumed much greater proportions than they now present, and have become interest-bearing investments. The promise that these will balance the accumulations of the rich is so uncertain that it is not of present moment.

Among the more wealthy there is a prospect, in some respects remote, it may be, that fortune building will be narrowed to the limits of saving from an income of interest. In a new country the accumulation of fortunes is not the unqualified evil that it is commonly supposed to be. The capital requisite for rapid development will not be acquired and saved by the masses; the undertakers of great enterprises must be very wealthy. But there is always the danger that

they will get too large a hold upon the wealth, the resources and the labor of the country. If they have now secured this, the most effective and practicable remedies are progressive taxes on incomes, gifts and inheritances.

The disposition of property through bequest and under the laws of intestate succession seems to be an inadequate check on wealth concentration. Notwithstanding the fact that one-fourth of the wealth is redistributed through probate courts every eleven to thirteen years, or thereabouts, and transmitted to more numerous holders, the diffusion of wealth has not been the net result, and perhaps it might not be so if accumulation were confined to interest and the earnings of labor. Perhaps the members of the middle class have not become poorer, but the rich have outstripped them as accumulators ; and if, with nine per cent of the families of the country now owning more than seventy per cent of its wealth, the proportion of these families is to diminish in the future as it has done in the past, the problem that is to vex the coming ages of the republic is already clearly manifest.

In a new country rapidly developing out of the conditions that go with agriculture, it is inevitable that there should be considerable concentration of wealth, and in some respects, at least, there are reasons for believing that to be desirable. But the inertia of such a movement may carry it too far, and it is not clear that, in the natural order of events, independent of taxation, the distribution that is most conducive to social welfare will assert itself when more permanent conditions have been reached.

GEORGE K. HOLMES.

THE ECONOMIC STATE.

BY some writers on economic theory, land, labor and capital are taken as the three factors essential to production. In other treatises only land and labor are included under this head, capital being looked upon simply as saved labor, and classed in the same category as machines and industrial undertakings. If we mean by production the simple exertion of physical energy necessary to sustain organic life, land and labor may indeed be considered as the sole factors which are involved. In the science of economics, however, we are not dealing with organic creatures in general, but with human beings alone, who are conscious of their activities. Economic production must, therefore, be distinguished from simple production and regarded rather as the conscious application of man's physical labor upon the land. Inasmuch, however, as it was human consciousness which first evolved the idea of capital and induced men to apply it in practice to all their creations, this distinction will prove fundamental. It will compel us, in short, to abandon the saved-labor theory and include capital, without reservation, among the original elements of economic production. Man, moreover, is by nature a social animal, and produces not individually, but in combination with his fellows. Economic production must, therefore, involve both a division and an association of human labor. As this, however, renders necessary some system of exchange and distribution before the final end of production is reached in the satisfaction of the individual desire, and as such a system does not fall in the category of either land, labor or capital, we are forced, it seems to me, to go still further and to add to the three original factors of economic production, a fourth, namely, industrial organization, or the economic state.

The inclusion of capital and the economic state among the prime elements of production is no novelty. In going over the proof I consider necessary to justify such inclusion, I shall

be obliged for the most part to traverse familiar ground. My only excuse for the repetition must lie in the fact that I have nowhere found developed in one logical connection, the doctrine that economic production must, in its very nature, imply division and association of labor, exchange and distribution, and that without the concrete existence of capital and the industrial state such production would be impossible.

It is unfortunate that the English language contains no generally accepted word to describe the conscious activity of human beings in the joint satisfaction of their individual desires. The simple term production we have already found too narrow, while the expression economic production is both awkward and ambiguous. The Germans have tersely summed up the idea in their word *Wirthschaft*, and in the absence of a better term I may perhaps be allowed to adopt a growing usage and employ our own noun "economy" in this same active sense. Henceforth in the present inquiry, therefore, "economy" may be taken as a term practically convertible with "economic production" as used thus far.

I.

Before attempting to analyze the actual economic conditions of society, one should first, through a process of pure reason, form an abstract idea of an economy, and then determine the constituent elements which go to make up this idea.

As the natural premises for such a deductive inquiry, we may assume first, the surface of the earth, with its annuity of heat, light, air and moisture, and second, the human beings who inhabit this surface.

Being members of the human family ourselves, our knowledge of this second premise can only come through a process of self-examination. If we adopt, therefore, the dictum of Socrates, *γνῶθι σεαυτόν*, we shall find, as he did, that human nature is dual; that within us there is both a particular and a universal self — a nature of pure sensation and a nature of pure thought. For our present purpose, however, we must go still deeper and recognize the fact that both these natures have

wants which must be gratified, else existence is impossible or at best incomplete.

Through instinct and experience, we have long since learned that outer nature, — or, as we have defined it, the surface of the earth with its annuity of heat, light, air and moisture — is the final source of satisfaction for human needs. But nature is, we know, chary of her gifts, and returns life-giving elements to man only on the condition that he exert at least his physical self upon her. Human life is, therefore, in its very essence, a struggle for existence — an endeavor on the part of man to satisfy his wants from outer nature, or the land, by the exertion of his physical energy, or labor.

If we now submit ourselves to a still more rigid self-examination, we shall be forced to admit, I think, that by nature we are averse to labor ; or, as Emerson has somewhere said: "Man is as lazy as he dares to be." And yet, as human beings, we know that our natural cravings are both limitless and apparently insatiable. For every longing satisfied by labor there is opened up before us a new vista of ungratified desires. Thus, from the satisfaction of the simple necessities of our physical being, we are led on through the gratification of our more complex physical wants to a thirst for mental and spiritual fullness. Those who have pursued furthest the dictum of the physical sciences, γνῶθι τὸ ἔξω, assure us, however, that outer nature is not merely chary of her gifts, but in the highest degree niggardly. From the facts they lay before us we are even reluctantly convinced that, after a certain point has been reached, the land of the earth's surface will tend to afford a decreasing rather than an increasing return to man's labor.

Were land and labor, therefore, the sole factors of the economic problem, man's struggle on earth for an ever-expanding existence would indeed be a hopeless one. True, we could perhaps conquer our natural inertia; but even then physical exertion would find its ultimate limit in possible human endurance. Unless a given amount of physical energy exerted by man can be made to force from outer nature an ever-increasing return, starvation, or at best stagnation, must ensue.

If, in short, the interaction of the natural forces inherent in land and labor give as a resultant simple brute existence, where by the postulate of human nature an enlarging economic existence is demanded, then the introduction of some third factor is essential to the solution of the question.

In this struggle for economic existence the initiative must, in the very nature of things, lie with man. If, therefore, the simple exertion of his physical nature must in time prove inadequate to satisfy his ever-increasing wants, he will ultimately be obliged to turn to his nature of pure thought for the extra force required, simply because this is the only source remaining from which he can draw. It is impossible, of course, that thought should exert itself directly upon outer nature in the satisfaction of human wants. Man may, however, by the exercise of his ingenuity, devise means whereby the forces of the outer world shall be made to take the place of his physical muscle-power in the gratification of his desires. Or, again, he may invent tools which shall be better adapted to extract goods of satisfaction from the land than those given him by nature. In either case it is the spiritual man that must evolve the idea, while the physical man is simply left with the task of putting it into execution. Such goods, invented and fashioned by human beings to be devoted to reproduction, we call capital — the first fruits of man's economic genius.

We are certainly justified, therefore, in including this idea of capital among the elements essential to an ideal economy; for without capital economic existence would be impossible. The point to bear in mind, however, is, that though some check must indeed be imposed upon the immediate desires of the individual, before he can provide himself with such goods as he can devote to reproduction, still, this restraint is rather the attribute than the essence of the idea. Capital, in other words, should be regarded not simply as the result of abstinence, but rather as the creature of pure thought, instituted by man's inventive genius, realized by his physical labor and amassed by his spirit of saving.

With the creation and expansion of capital, however, man's ingenuity cannot be said to have played its entire rôle. Land, labor and capital alone would never suffice to solve the problem of human existence; nor, as a matter of fact, have they ever done so. Capital, it is true, is able to save labor to almost any extent, conquer outer nature with marvelous effect, and give us satisfaction for a host of wants before not even dreamed of; but let a human being invent, save and labor as he will, there must still remain before him a mountain of ungratified desires, if for no other reason than because individual labor and capital are not powerful enough to conquer outer nature to the extent required for the economic evolution of the human species. Then again the land, which must be looked upon as the final source of supply, is strictly limited both in area and in productive capacity, while human beings, whose wants are limitless, may multiply without end. If, then, all mankind through the application of labor and capital continually strove to reap greater and greater satisfaction from the one common source, there would in time of necessity result a conflict of individual interests, and human existence would resolve itself eventually into a war of extermination — the very negation of economic advance.

Over and above the waste of energy involved in this condition of individual warfare, there seems also to exist in the human breast a natural antipathy to such a state of affairs. If we now pursue our process of self-examination to the end, we shall find that beyond the merely economic desires which crave satisfaction and impel us onward in the struggle for existence, there is further a long series of what we might call political wants, emanating entirely from our universal nature, which also demand fulfillment. We desire to live at peace with our neighbors, we are anxious to coöperate with them in the mutual satisfaction of our wants and to work in harmony with them in our struggle with outer nature. Darwin seems somewhat in doubt whether these "social instincts," as he calls them, have been acquired "through natural selection, or by the indirect result of other instincts and faculties, such as sympathy, reason, experience and a tendency to imitation; or again whether they

are the result of long-continued habit."[1] Be this as it may, we can certainly affirm with confidence that it is man's insatiable desires, both political and economic, which, unable to reap adequate satisfaction through the individual application of labor and capital upon the land, compel him to call once more upon his universal nature to devise some means whereby he may unite with his fellows in the joint fulfillment of their wants and in harmony of life.

Such a union of interests, to be economically advantageous, must not only imply a political association of individuals, but also a division of their labor and capital and a regular system for the exchange and distribution of their products. Now in order that this scheme of coöperation may be actually carried out, and not remain simply an idea of the reason, some concrete form of industrial organization is absolutely essential. Furthermore, considering human nature as it is, the organization, as such, must be all powerful over the individual, in order that each worker shall be forced to do his allotted part, and in order that each shall receive a share in the ultimate distribution of the goods of satisfaction in due proportion to the labor and capital he himself has expended. In other words, an organization of individuals for industrial purposes, to be active, must be subject to the control of one supreme central authority, to which all individual questions affecting its workings may be referred, and from which there can be no appeal.

This idea of a union of individuals under one sovereign power, is, however, nothing more nor less than the idea of the state expressed in the language of economics; or, as Bluntschli has tersely and adequately expressed it: "Der Staat ist die organisierte Menschheit."[2] If, therefore, we mean by an economy the continued satisfaction of the ever-expanding wants of mankind at the least possible expense of human energy, we are forced, it seems to me, to add to the three elements thus far found essential to the idea, land, labor and capital — a fourth constituent element, the economic state.

[1] Darwin, Descent of Man, p. 79. [2] Lehre vom Modernen Staat, I, 34.

II.

Let us now change our point of view, and examine the industrial conditions of society objectively.

Since all mankind must, in a state of pure nature, satisfy its primitive wants through the exertion of physical energy upon the land; and, since we can discover no savage people in all the course of history who have not shown at least some ingenuity in the invention of labor-saving devices, as well as some restraint in the saving of such goods as could be devoted to reproduction: we are certainly justified in assuming land, labor and capital as the three elements which, in fact as well as in theory, have proved essential to all human economies. Of the fourth constituent element in our ideal economy, however, we cannot speak with such easy assurance. We certainly do not see all individuals nowadays co-operating in the struggle for existence under one industrial organization; nor, indeed, does this appear ever to have been the case. But on the other hand, history affords us no consistent examples of individuals who, for any length of time, have successfully combatted nature single-handed. We are thus precluded from basing our inductions either upon an all-comprehensive world state, or again upon a system of economic individualism.

We shall reach a more correct conception of the actual state of affairs, it seems to me, if we but remember that evolutionary growth is not that of a straight stalk ending in a single flower, but rather that of a tree and its branches, each branch sprouting with countless twigs, and each twig laden with many blossoms. With this idea in mind, we may best look upon the pre-historic horde-life of man on earth as the roots of the tree of economic evolution. We will see, then, that in the course of time there have grown from the original trunk many industrial branches, on whose myriad twigs again have blossomed innumerable human economies, each with its own land, labor and capital all closely held together in the folds of its particular industrial organization. An analysis of the concrete conditions of modern industrial society would seem thus to have

become exceedingly complicated; yet this is not necessarily the case. To determine whether the economic state is, in practice as well as in theory, a condition precedent to industrial advance, we have but to follow the growth of that particular branch of the economic tree which to-day is the stoutest and longest, and then analyse the most perfect flower of its topmost twig. In this is embodied that economic concept most nearly approaching the ideal economy of our reason; and having determined upon its constituent elements, we may take them to be those actually essential to the highest forms of economic evolution.

To arrive at practical results we must therefore discover, partly through a process of elimination and partly through a constructive historical inquiry, in the first place, what lands of the earth's surface have been the abodes of man's successful economies; secondly, what human beings by the application of their labor and capital have brought these economies to their high degree of perfection; thirdly, whether these people have achieved this end through coöperative methods; and, lastly, to what extent the industrial organization so formed, if present, has proven indispensable to their economic advance.

All the lands of the earth's surface are, as we know, not equally qualified to supply the economic needs of the human race; nor, indeed, have they all been rendered equally productive by the application of labor and capital. In the frigid zones, on the one hand, nature responds so charily to the labor of man that he must exert his utmost physical effort barely to subsist; while neither energy, time nor material is left him to be devoted to capitalization and advance. In the tropics, on the other hand, nature is too lavish. It requires there little more than simple physical motion to satisfy all the requirements of a lazy existence. Necessity rarely calls forth the mental reserve force of the inhabitants of these parts, while the ease of life and the enervating influence of the climate conspire to suppress in these people all ambition and all desire to improve their lot. In the configuration of the earth's surface, at least, we may truly say that virtue lies in the mean. It is in the lands of the

temperate zone, or in those lands of the tropics whose elevation renders their conditions of soil and climate similar to those of the temperate zone, where human beings have actually realized the ideas of their reason, and have thus raised themselves definitely above the plane of simple existence. The cause of this phenomenon is apparent enough. In these temperate lands nature returns to man, provided he exerts his energy upon her, ever something over and above the necessities of every-day life, and thus assures to him both time to picture new wants and ambition to satisfy them, besides providing him with extra materials upon which he may exercise his economic ingenuity.

In spite of these natural advantages, however, we find to-day, in some of the most fertile lands of the temperate zone, both stagnant and retrogressive economic conditions. We can only infer from this that all human beings are not equally endowed with economic genius. Let us, therefore, carry our process of elimination still further, and determine, if possible, what members of the human family within these temperate lands have actually taken advantage of their surroundings and are now successfully solving the industrial problem.

Following the latest researches in anthropology, ethnology and comparative philology, we may first divide mankind, somewhat roughly, into three original races : the black, or negro race ; the white, or Caucasian race ; and an unclassified mass, which is included under the head of the yellow, or Turanian race.

Whether the black race was originally driven from the lands of the temperate zone by successive waves of the yellow and white races is purely a matter of conjecture. We do know, however, that during historic times the negroes have always remained in the tropics and have added little or nothing to economic advance. Whether, again, this unprogressive condition is due to ingrained race characteristics or merely to unfavorable surroundings, is not the question. Probably both causes have had an influence. The fact that the members of this primitive race who have been transported in a condition of slavery to

fertile lands of the temperate zone, have rarely shown, even after regaining their freedom, any special economic genius or any great ambition to advance, points rather strongly to the conclusion that the negro race is essentially inferior.

In dealing with the economic characteristics of the yellow race, on the other hand, we have a more complex problem before us. The Turanians have inhabited from time immemorial fertile lands of the temperate zone, and in many cases have demonstrated marked economic aptitude. If to-day, however, we except the Hungarians and Japanese, who have adopted the industrial methods of the Caucasians, we must, I think, admit that the members of this conglomerate race have never been able to comprehend the real significance of an economy, as we understand it. True, the best of them are saving and industrious, and have shown at times remarkable inventive genius in conquering niggardly nature; their wants, however, are few, their industrial organization is crude in the extreme, and there appears among them none of that restless ambition to perfect their existence, so characteristic of our modern economies. We need no longer follow, therefore, the growth of either negro or Turanian economies. Not that they do not form branches of the economic tree; but only because these branches are neither so stout nor so long as those of the white race, and because their industrial blossoms are at best undeveloped.

Even though we may now eliminate from our inquiry the lands of both torrid and frigid zones and the labor and capital of the black and the yellow races, as factors which can not enter into the economic unit we are seeking, still our inductive analysis is far from complete. Neither the land of the temperate zone nor the economic energy of the white race can constitute the simple elements we require as the foundation for our constructive work. We have before us, it is true, the main branch of economic culture, but we have still to determine which of its twigs have borne the fairest flowers.

If we proceed to examine the temperate lands more carefully, we shall find them composed of smaller geographic unities,

which we may succinctly define in the words of Dr. Burgess as "territories separated from other territories by high mountain ranges, or broad bodies of water, or impenetrable forests and jungles, or climatic extremes — such barriers as place, or did once place, great difficulties in the way of external intercourse and communication."[1] Though all situated within the temperate zone, some of these geographic unities are found to be by nature better qualified than others to respond to the labor of man; some are peculiarly adapted to the satisfaction of one set of human wants, some to the gratification of another. To be exact, therefore, we should examine these geographic unities severally, looking upon each as the land-element of that particular economic structure man has built upon it.

Nor, on the other hand, can the white race be at all regarded, in history, as a simple ethnic unit, whatever may have been the case in prehistoric times. While still nomads the Caucasians are found divided into three great families, the Hamitic, the Semitic and the Aryan. The members of these several families, again, the better to gratify their primitive desires, early began to exercise their inventive faculties in fashioning implements of the chase and in organizing themselves along family lines into clans and tribes. Having thus, through the institution of capital and the realization of their social instincts, raised themselves once for all above the purely savage state, the succeeding steps in the politico-economic evolution of these several tribes followed in natural sequence. Finding their immediate physical wants still insufficiently and irregularly satisfied, these people probably next conceived the idea of taming the beasts of the field, instead of killing them outright, and thus provided themselves with a form of capital which would reproduce itself, with but little expense of energy on their part. It is on this plane of economic civilization that we meet our Caucasian ancestors in legend, organized as pastoral tribes, wandering over the lands of the temperate zone, tending their flocks. With them, however, nomadic existence was, like the hunting stage before, but a

[1] Burgess, Political Science and Constitutional Law, vol. i, p. 2.

transition period, and at a certain point in its career each family of this dominant race turned to agricultural pursuits, thus realizing the significant idea of capitalizing the very surface of the earth itself, and making it reproduce to order. This transition to the agricultural stage of society necessitated, of course, an abandonment of the older wandering life, and gradually brought with it also a revolution of the primitive tribal organization. Some particular district of land, some special geographic unity of the temperate zone, had now to be chosen as a definite abode and source of supply. A new element was thus added to the lives and traditions of these various tribes. The desire to exploit the natural resources of their geographic unity by the application of labor and capital and through the improvement of their industrial organization, together with the necessity of defending their incipient economy from the rapacity of jealous neighbors, immensely broadened the sphere of action for the social instincts of these people, strengthened their family ties, and developed further the bonds of tribal union already existing. Peculiar geographic conditions, working thus upon these half-leavened lumps of tribal affinities, produced finally a further coalescence within each of the three great families of the white race, and formed a new aggregate, the nation, which may be looked upon as the simplest ethnic unity, and defined again with Dr. Burgess, as "a population having a common language and literature, a common tradition and history, a common custom and a common consciousness of rights and wrongs."[1]

Our process of elimination may now be considered complete; for, as a matter of historic fact, I think it will be conceded that it is the interaction of these two forces — the productive capacities of the several geographic unities of the temperate zone, and the economic energy of the various Caucasian nations inhabiting the same — which has actually brought forth the highest types of our economic civilization. By economic energy, however, I do not mean human labor in the ordinary sense of the term, but rather physical labor force,

[1] Burgess, Political Science and Constitutional Law, vol. i, p. 2.

directed by that subtler energy of man's mental nature which we have called his inventive genius.

Henceforth our inquiry will be constructive, and will be directed along the line of general economic history. We have now simply to determine which of these ethnic unities of the white race have reared the most perfect economies within the geographic unities of the temperate zone, and to what extent these successful builders have deemed it to their highest industrial interest to place themselves, their land and their capital all under the supreme authority of an economic state.

Assuming such a geographic unity of the temperate zone, inhabited by an ethnically unified people of the dominant race of man, some form of industrial organization, including the land, labor and capital contained therein, and with supreme authority over all three elements, would seem to be a natural development. It would certainly be to such a nation's interest to exploit to the utmost the natural advantages of its particular land; and this, experience as well as reason will reveal, can only be accomplished by means of a division of labor and capital, and through a system of exchange and distribution, harmoniously carried out under the sanction of supreme law. Then, again, among a people who, through inherited racial characteristics and the influence of environment, have come to have common economic notions and a common political ambition, there would be little to prevent the formation of such an organization and little to hamper its operation when once established.

Among the economies of the ancient Semites, Hamites and Aryans, however, this idea of industrial coöperation was but little developed. The individuals composing the several ethnic unities in these families of the white race were not in a position to comprehend the scope and advantage of such a system. What organization there was, therefore, came from above. Those few enlightened men who grasped the idea of the state and its sovereignty, used it to oppress their fellows and reap the rewards themselves. Furthermore, as soon as each of these ancient nations had reached a certain point in its politico-

economic growth, the idea of conquest cropped out, which, indeed, seemed to them the only adequate way of satisfying their expanding wants. By the application of great physical force, concentrated through military organization, weaker economies could thus be brought under the sway of the stronger, and the land, labor and capital of the former be turned to the further gratification of the desires of the latter. From the standpoint of the dominant nation, this idea was indeed a labor-saving device, and directly in the line of its industrial advance. It had, however, a demoralizing effect upon the conquered people, not only destroying their spontaneous ambition and stifling their spirit of invention, but also hindering at every turn their national development.

As we pass in economic history from Asia to Europe, we notice, it is true, in the later-born economies, that the workers themselves began to enter more and more fully into the control of their industrial organization and into the ultimate distribution of its products. While the idea of the economic state was thus sinking deeper and deeper into the minds of these ancient people, so at the same time, however, as if to neutralize its effect, the idea of conquest waxed stronger and stronger, until at last, among the highest developments of ancient industrial culture, we find, instead of a series of independent economies, simply a collection of incipient economic organisms whose lands, labor and capital are all held firmly by force of arms in the grasp of a single international power.

At this point the main stem of our tree of economic evolution bifurcates. On the one side appear only the dead stock and withered industrial blossoms of Roman imperialism; on the other the vigorous life and healthy flowers of free Teutonic growth. Grafted to the Roman branch, it was but natural that the earlier blossoms of the young shoot should have resembled those of the older. The idea of conquest, in other words, kept cropping out now and again in different forms during mediæval times; and though it developed finally into the mere empty dream of a world empire of the West, still it had somewhat the

same retarding effect upon national industrial growth during this period as before. Another force was also active in the same direction during the middle ages. The feudal system — the first bud of this later Aryan branch — divided the lands of the several geographic unities of Europe into smaller arbitrary divisions called fiefs, and gradually transferred the supreme authority over the agricultural economies within them from the original peasant proprietors to the feudal lords themselves, while the handicrafts, then in their infancy, were huddled in the towns under an industrial organization of their own, striving to free themselves entirely from feudal control. Agriculturists living within the same geographic unity, who by nature were destined to become ethnically unified, were thus for a long time kept apart through their subjection to different feudal lords, while the peasants as a class were severed by jealousies and feudal restrictions from their kinsmen of the towns. Loose political organizations among the different feudal lords did exist to some extent during these ages, and some spirit of industrial coöperation began also to manifest itself among the burghers of the different towns. Such organizations, however, disregarded the lines of both geography and ethnography, and one and all were lacking in that principle of central sovereignty so essential to the idea of the state.

Beneath the outer forms of the feudal system, geographic and ethnic forces were, however, still persistently active. The germs of a higher economic product were beginning at last to show signs of life. Within each geographic unity some Teutonic prince, actuated by personal ambition and yet supported for the most part by the entire peasant class, whose aim was to free themselves from the exactions of the petty lords, began step by step to bring under his control all the agricultural fiefs of the land. The towns, on the other hand, had already become practically freed from the feudal system ; and, as each had its own political and economic interests, they were naturally loath to be again subjected to external authority. In time, however, it became apparent to the townsmen that their guild economies could not advance a step farther without

the support of the agricultural class. Some regular system of exchange between the two was absolutely essential, and such a system, the burghers were reluctantly forced to admit, could now only be carried out under the authority of the lord who had by this time brought under his control all the other industrial factors of the country. Thus were the various towns of each geographic unity one by one compelled, sometimes by brute force, sometimes by the economic necessity of the case, to join with the agriculturists, and enter with them into the particular politico-economic organization designed by the absolute monarch to meet their respective needs.

In Europe, at least, we may therefore truly say, the growth of national politics and the development of national economies went hand in hand. Through the inventive genius of the Teutons the industrial and political wants of these later Aryan people were at last placed upon the road to mutual satisfaction. As early as the seventeenth century we find in the geographic unities west of the Rhine — the Spanish peninsula, the Gallic lands and the British Isles — pretty well amalgamated ethnic unities, each with its accumulated wealth and capital, each politically and economically organized under a Teutonic prince who based his authority, not primarily on force, but rather upon the tacit approval of both peasants and burghers and the acquiescence of the feudal aristocracy. The national industrial state had, in short, by this time become an economic necessity, and before it the older feudal economies everywhere fell away. In their places other national states grew up in time within the rather ill-defined geographic unities of Central Europe and along the border lines of the Gallic lands, in Northern Europe, in the Italian peninsula, and to some extent also in the Slavic lands of Eastern Europe — one and all, if we examine the question closely, owing their politico-economic organization to Teutonic inventive genius.

With this increase in the number of industrial states, there was going on at the same time in Europe an evolution also in their internal structure. Once under the control of a central economic authority, the agriculturists and handicrafts-

men of these new nations began to find their respective economic interests becoming more and more identified through the exchanging class, and at the same time to realize a divergence of these interests from those of the authority to which they had submitted themselves. Their demand was accordingly for greater individual freedom and at the same time for a closer industrial organization. The national monarchs naturally failed to grasp the situation. From the outset they had been actuated in their work by the idea of personal aggrandizement, and they looked upon their now full-fledged national economies much as their fathers had regarded their original feudal estates. To carry out their common ideas, each ethnic unity, therefore, was compelled at last to assert its own collective sovereignty, and intrust the authority, both political and economic, to a ruler of its own choosing, no longer in fee simple, but only during good behavior, and even then under strict conditions as to policy. Thus in law as well as fact each European nation, organized now along political and economic lines as a state, became the holder of the sovereign power over its own individual members, and over the land whence, by means of its labor and capital, it could achieve the satisfaction of its wants.

Three of the states so formed, England, France and Spain, had, meanwhile, sent forth ethnic shoots into the western hemisphere, some of which have since grown up into national industrial states within the geographic unities of America. Those in the southern continent have followed very closely the bent of Spain in their politico-economic growth, though, as independent states, they are even at this day comparatively immature. The industrial organism of the far north, on the other hand, though well developed economically, is still politically attached to England, and cannot, thus, be considered an independent state at all.

In the centre of the North American continent lay three geographic unities, the Atlantic slope, the Mississippi basin, and the South Pacific slope,[1] colonized respectively by English, French and Spanish settlers. It seemed at one time

[1] Burgess, Political Science and Constitutional Law, vol. i, p. 12.

as if the coincidence of these lines of ethnic and geographic demarkation might result in the growth of three independent states. The longitudinal mountain ranges of North America, however, could scarcely form barriers sufficient to shut off communication between nations so highly developed in the ways and means of intercourse as the English, French and Spanish. The early settlers, furthermore, were all on the same plane of economic culture; and under the influence of the common interest in redeeming their new lands and keeping them free from the further encroachments of their former masters, the absolute monarchs of Europe, old-country ethnic divisions began gradually to fade away. As a matter of fact, the entire North American continent may perhaps best be regarded as a single geographic unity. It is practically all included within the temperate zone; it is surrounded on all sides by broad stretches of water; and it is but little cut up internally by mountain ranges or great climatic differences. These considerations impressed themselves more or less upon the English, French and Spanish settlers, and the question as to which of the three ethnic types should assume the initiative in controlling the entire country and in organizing a common industrial system for all, thus resolved itself, finally, into one of force. The struggle, however, was short lived. The English colonists, descendants from the purest Teutonic stock, won the day, absorbed the other ethnic elements and freed themselves entirely from European control.

Influenced by their new environments, these three European nationalities, in combination with each other and in further amalgamation with other ethnic types of the old world, have since given birth to a new ethnic unity,—the Americans,—who in turn have amassed their own national capital and, untrammeled by feudal traditions, have organized themselves along political and economic lines of their own into what is probably the most perfect industrial state as yet evolved by the genius of man.

Here our constructive enquiry must cease. In the national state of our day we assuredly have before us that concrete

economic concept which most nearly approaches our pure idea of industrially organized mankind. As the essential elements of this concept, we should, therefore, now substitute for the land of the earth's surface the several geographic unities of Europe and America, and for the economic energy of the human race the peculiar forms of labor and capital applied upon these lands by the nations of later Aryan stock inhabiting them. Thus, instead of premising an all-comprehensive world organism, we should at present, it seems to me, confine our attention to an analysis of the particular industrial organizations which enfold, as it were, the land, labor and capital of our modern national states.

III.

If called upon to define a national industrial state, I should speak of it as a product — and, withal, the highest product — of politico-economic evolution, made possible by the social instincts of man, induced by his primitive economic and political wants, and developed naturally through the centuries of his growth, in order to satisfy the increasing requirements of his ever-expanding physical and spiritual desires. Not only would I call this state a product of evolution, but further, an *organic* product, formed, as we have in our hasty survey noted, by the natural coalescence of individuals of a certain ethnic type, each with reciprocal social and industrial relations the one to the other, and all at the same time as organic units in direct politico-economic connection with the national state itself, which, in a final word, I would define as a *politico-economic organism.*

In all the state forms of the past there has always been one final authority, one court of last resort in matters industrial as well as in matters political. The change that has gradually come about has not been in the essence of authority itself, but rather in the particular persons in whom such sovereignty has in the course of time become vested. Publicists, it is true, have carefully followed the development of this idea from a purely political standpoint, and traced the gradual transition of

state authority from priests to despots, from the despots through the transition stage of oligarchy rule to the absolute monarchs, and from the absolute monarch finally to the popular sovereignty of our modern constitutional era. All that I have here endeavored to make plain is, that from beginning to end, in inception as well as in development, the sovereign state has always been, is now, and in all probability will ever remain economic as well as political in character. I have simply wished to show that the final source of political and economic power must in the very nature of things be one and the same; that our modern national states, in other words, are the economic sovereigns of the age, and that no individual industrial transaction can be begun, carried on or completed without the express or implied consent of one of these supreme authorities.

Instead, therefore, of premising the universal economic rights of man, we should, it seems to me, take our stand firmly at the outset on the economic sovereignty of the state and reason accordingly. Land and labor will still remain the primal elements of human existence; capital we shall find to be a phenomenon common in various degrees to all advancing economies; but it is the sovereign national state after all which must in our day, at least, be regarded as the determining factor in economic advance.

IV.

Publicists have long since ceased to speak of individual liberty as a natural right of man. Why, then, should economists continue to premise man's natural right of economic freedom? Such assumptions can only tend to retard the natural growth of our economic organisms. Economic freedom, I take it, is nothing more or less than the sphere of autonomy allowed to the individual by the state in economic matters. In economic as in political liberty the sovereign power sets the final bounds. So long as the supreme authority lay in the hands of despots, of feudal lords, or even of the absolute monarchs, this domain of economic freedom was, it is true, unnecessarily contracted and its boundaries arbitrary.

Nowadays, however, since the people themselves have become the state, the case is different. Under the constitutional system the people as an organic unit allot to themselves in severalty a definite sphere of individual industrial action, and place their government over the same to guard its boundaries. If one individual should then intrench upon the economic rights of another, these same governmental authorities will interfere. If, on the other hand, any organ of government itself should endeavor to overstep the power delegated to it by the sovereign state, and encroach upon the field of individual autonomy, the system of checks and balances in the modern constitution will operate to redress the wrong. Or, finally, if it become the prevailing opinion among the people that the domain of individual economic liberty thus laid down by them has in the course of time become too narrow or too extended to serve the best interests of their organic life, they may in their capacity as sovereign state, by amendment of their constistitution, reconstruct the boundaries of industrial freedom to suit these changed conditions. In any case, it is the state which remains supreme; individuals, as such, simply carry on their several economic activities under its control and at its pleasure.

When we speak in economics, therefore, of freedom of contract, freedom of labor and capital, freedom of business and market, we can only mean thereby such freedom as the state allows to individuals in these matters. Hence industrial liberty is not, as some would have it, the final issue between the forces of individualism and socialism in their death struggle, but rather a question of expediency, to be determined by the state, and not once for all, but relatively to time, place and organic growth — a question which rising state majorities will continue to take from the hands of antiquated governments to decide anew.

V.

The industrial organism of the modern national state, then, is the fairest flower of economic evolution. But the tree of industrial development still tends heavenward and gives

promise of perhaps more perfect blossoms. We must consider the possibilities of this future growth.

We have already noted that the geographic unities of the temperate zone are by nature adapted, some to one form of production, others to another; that the various nations have exerted their inventive genius in the application of capital along various independent lines. Two courses are thus left open for the economic procedure of a national state. Either it may extract from its own land what satisfaction it can for all the diverse wants of its individual members, or it may use its labor force and peculiar inventive genius in exploiting its territory in that particular way for which it is by nature best adapted. Should an industrial state pursue the latter course, it must first be assured that the rest of the national organisms will also follow the same plan; for unless each can secure in return for its own surplus product a share of the peculiar surplus products of all the other states, the diverse wants of its inhabitants will still remain unsatisfied, and at the same time it will find itself burdened with a redundancy of its own productions.

In the early days of economic development such a system of division of labor and exchange on a national scale between the different sections of each geographic unity, and among the several industrial classes of each ethnic unity, was found, as we know, advantageous to all concerned. The same principle became, therefore, the more readily applied with increasing economic gain on an international basis among the several industrial states themselves. Just as, in the past, individuals of a common ethnic type settled in a definite land were induced, through their common social and industrial interests, to unite under one state organization, so now these very national states, sprung from one family of the white race, of common culture and with common aims, are beginning to be drawn into closer and closer union for the better fulfillment of their larger politico-economic demands. The cardinal distinction between the national and the international union lies in this fact, that over the individuals of the former the organization itself

is supreme, while in the latter the national organic units still retain their sovereignty. In the one case we are dealing with an organism, in form at least, complete ; while in the other the process of crystallization has practically just begun.

The political side of this incipient world-organism is indeed but slightly developed ; for political wants seem as yet better satisfied along national lines. It is the economic side — the international industrial union — which is significant. Economic wants seem to have expanded too far to be any longer adequately satisfied by national production and national division of labor alone. The crystallization of national economies into an international organization is, therefore, already well advanced, and is even now beginning to mould political alliances to suit its form. Modern nations, like individuals of old, are, it is true, for the present loath to submit themselves entirely to any extraneous control, either political or economic, and deem it essential to their best interests still to cling to the earlier principles of agreement and self-help. We should take particular note of the fact, however, that while international political law recognizes no ultimate authority other than the force of arms, international commercial law is actually enforced in the courts of the several national states themselves. Thus, again, by another road, have we come upon an actual realization of the world-empire idea. What authority it has, however, this international industrial organization derives, not, as before, from the force of arms, but rather from the free will of the national states themselves — the organic units which form it.

These buds of world-economy seem only to be found among the sparse foliage of higher economic evolution, for the present somewhat beyond the reach of inductive analysis, yet still in plain view of those, who, from the standpoint of the national organism, are watching them burst into fuller bloom.

Should we now, in conclusion, step back and view the industrial tree as it stands to-day, we cannot fail, I think, to admire its proportions and wonder at the symmetry of its growth. Surely the economic organism is as infused with life as are those of botany or biology. How, then, can the

analysis of such a product be regarded as "the dismal science"? Here, as in all the organisms of nature, the germ of life is the same; it is that very necessity of existence, that insatiable desire for ever something more, which makes us and all organic creatures struggle to live and grow. Human evolution only differs from that of the plants and animals in that man's desires have, in time, become two-fold. In addition to mere physical wants the human being feels the aspirations of a universal self; the nature of pure thought, as I understand it, being simply the complement and evolutionary outgrowth of the nature of pure sensation.

As in man physical well-being is the necessary condition of spiritual elevation, so we find the trunk of our economic tree firm-planted in material earth, whence, through its wide-spreading roots, it may draw its supply of life-giving elements and diffuse them through its branches to its topmost twigs. It is only upon the stout limbs of materialism, that the fair flowers of idealism can actually bloom and thrive; it is only through industrial utilitarianism that the ideals of modern society have ever been made possible. In our study of economics we should not, therefore, rest content with measuring the branches of this industrial tree as so much timber for use; nor, on the other hand, should we merely dilate on the economic beauty of such ideal blossoms as a balmy spring may perhaps bring forth. Rather should we study carefully the growth of the tree as it stands to-day, from its roots in mother-earth on through its spreading branches to the tips of its tiniest shoots; for only when familiar with the nature of its growth may we presume to prune it of its straggling branches and by concentrating its vital energy help it to bring forth the ideal fruits of our reason.

LINDLEY M. KEASBEY.

PRIVATE CLAIMS AGAINST THE STATE.

PREVIOUS to the existence of tribunals vested with power to hear and determine claims against the government of state or nation, the question of the civil responsibility of the latter towards private parties received little if any judicial discussion or settlement. The validity of pecuniary or other civil obligations on the part of the government in many cases was undoubted, but they lacked the sanction of the ordinary remedies. The aggrieved party could not summon the government before the courts; they could take cognizance of his cause at most where the government itself had invoked their jurisdiction and he sought to reduce its claim by set-off,[1] or in other cases where its rights could be adjudged without direct subjection to the jurisdiction of the court.[2] In the absence of a direct remedy, any right was necessarily precarious. The question of liability could not become a subject of profitable discussion until the question of jurisdiction was disposed of.

I. *Jurisdiction.*

It has always been accepted as an undisputed maxim of the common law that the sovereign cannot be sued except by his own consent. This principle commended itself by the apparent cogency of its logic. The courts exercised their jurisdiction under the authority of the sovereign and their mandates issued in his name: How, then, could the king be imagined to be under the control of his own courts? How could he issue his writ commanding the sheriff to command him, the king, to appear, *etc.*?[3] The ordinary form of action would thus be inapplicable against the sovereign; even if there had been no formal difficulties, the courts would naturally have declined to

[1] U. S. *vs.* Ringgold, 8 Tet. 163; but see U. S. *vs.* Eckford, 6 Wall. 484.

[2] The Siren, 7 Wall. 152.

[3] Chitty, Prerogative, p. 334. Blackstone, Commentaries, iii, p. 254.

entertain jurisdiction when they could not compel obedience to their decrees. Only voluntary submission on the part of the crown could secure a judicial hearing in favor of private claims against it. And this was granted in England at an early date. The petition of right, the oldest remedy, is said to have originated in the time of Edward I; another mode of redress was provided by the bill of manifestation of right (*monstrans de droit*) during the reign of Edward VI. The petition of right, though granted as a matter of grace, was regarded as the birthright of the subject, and was available where other remedies failed. Upon filing of the petition the king's fiat, "let right be done," was granted by the attorney-general, and the issues thereupon became triable either in chancery or in the court of exchequer. In these proceedings the crown enjoyed certain privileges; an interesting and forcible statement of the various defects (from the point of view of the petitioner) may be found in Brougham's famous speech on law reform. The most serious objection in theory was doubtless the lack of redress if the attorney-general refused his fiat; as a rule, however, the fiat issued as of course. It was formerly doubtful in what way effect could be given to money judgments against the crown; now the duty is laid upon certain treasury officials to pay out of funds legally applicable for that purpose; some sort of appropriation by Parliament would therefore seem to be necessary. The English law on the subject is now regulated on the basis of the former practice by 23 and 24 Victoria, chapter 34.

Neither of the remedies against the sovereign in use in England became part of the common law of the American states upon their assuming independence. In England and in the colonies, in all relations of property, the sovereignty was represented by the crown, but in this country all the rights of the crown in this respect devolved upon the people. And while, upon the constitutional organization of the people, the judiciary department succeeded to all the powers held by the courts in England, the executive became vested only with such powers as were expressed and specified in the written constitu-

tions. All residuary public power, even such as was not of a strictly legislative nature, remained in the legislature. Especially, in the absence of statutory provisions, all right of disposition with regard to the public property which had belonged to the crown, was claimed and exercised by the legislature. The legislature alone had the power to release rights vested in the people, to validate void contracts, to waive rights and defences or to recognize claims against the state for damages.[1] The privilege of petitioning for the redress of any grievance was guaranteed by the federal and by most state constitutions, and petitions of right respecting private claims against the government were directed to the legislature. But the English practice of delegating the investigation and adjudication of such claims to the courts was not followed, and the legislative bodies themselves passed upon all claims presented to them. Where a claim was allowed, the proper relief was given by a statute enacted for that purpose. It does not require much argument to show that this discharge of judicial functions by legislative methods must have been inadequate and unsatisfactory. The following, written with reference to the condition of things in Congress, must apply equally to any legislative body to which many private claims are presented for disposition:

> Such was the extent of these claims and the difficulty of reaching the real facts in each case that few of them were ever acted upon, and many honest creditors of the United States were turned away without a hearing, and others were deterred from presenting their petitions for redress by the difficulties in the way of reaching a final determination, while it was occasionally found that upon hasty consideration or imperfect *ex parte* evidence a claim was allowed and paid which was, to say the least, of doubtful validity. Committees could not constitute themselves courts for the trial of facts. They had not the time to devote to that kind of investigation, to the interruption or exclusion of their duties to the country on the great national questions which were always pending in Congress. They could not effectively examine the plaintiff's witnesses to any great extent before themselves, and they were not sufficiently familiar with

[1] People *vs.* Stephens, 71 N. Y. 527, 540, 548.

the matters in controversy to be able to procure witnesses for the government. Claimants in fact presented only *ex parte* cases, supported by affidavits and the influence of such friends as they could induce to appear before the committee in open session or to see the members in private. No counsel appeared to watch and defend the interests of the government. Committees were therefore perplexed beyond measure with this class of business, and most frequently found it more convenient and more safe not to act at all upon those claims which called for much investigation, especially when the amounts involved seemed large. Moreover, when bills for relief in meritorious cases were reported, few of them were acted upon by either house, or, if passed by one, were not brought to a vote in the other house, and so fell at the final adjournment, and if ever revived, had to be begun again before a new Congress and a new committee, and so on year after year and Congress after Congress.[1]

These manifest evils of legislation on private claims led to the adoption in a number of state constitutions of clauses directing that legislative provision should be made for bringing claims against the state into court; but thus far very few of the legislatures have complied with this mandate. In the absence of constitutional provisions to the contrary, it is within the legislative power to commit the adjudication of private claims against the state to the courts, since this is plainly not the delegation of a legislative function. Whether the legislature has the power to create a special court for that purpose, will of course depend upon the particular provisions of the constitutions. Neither the system adopted by the United States nor that developed in the state of New York rests upon special constitutional authority.[2]

Congress, in 1855, created a court of claims by virtue of its constitutional power to establish inferior courts.[3] Under the provisions of this act, however, the decisions of the court were

[1] Richardson, 17 Ct. Cl. Rep. p. 4.

[2] Seven of the states allow themselves to be sued, three of them in obedience to a constitutional injunction. These states are: Alabama, Mississippi, Nebraska, New York, North Carolina, Virginia and Wisconsin. In five states the constitution forbids the state to be made a party defendant.

[3] U. S. Rev. Stat., §§ 1049 *et seq.*; a full account of the history and jurisdiction of the court of claims is given by Justice Richardson in 17 Ct. Cl. Rep. p. 1.

reported back to Congress for special action on each separate case, and the committee of claims felt bound to re-examine each claim upon its merits. In this way the beneficial effects of the whole act were almost rendered nugatory. By an amendatory act, passed March 3, 1863, Congress provided, therefore, that all judgments of the court should be paid by the treasury out of any general appropriation made by law for the payment of private claims.[1] As the same act, however, provided that no money should be paid out of the treasury for any claim till after an estimate of the appropriation for the purpose should have been made by the secretary of the treasury, the supreme court held that this, by implication, gave power to the secretary to revise the decisions of the court of claims, and that such decisions, consequently, did not bear the character of judgments over which, under the constitution, the supreme court could exercise appellate jurisdiction.[2] The obnoxious provision was repealed in 1866, and the awards of the court of claims were from that time on recognized as final and conclusive judgments. By act of March 3, 1887, the United States circuit and district courts were vested with substantially concurrent jurisdiction with the court of claims.[3]

In New York, where the legislature has no constitutional power to establish other than inferior local courts, the bodies to which the adjudication of claims against the state has from time to time been committed bear merely the character of commissions; their awards have not the full force and effect of judgments. The supreme court has not been intrusted with this jurisdiction. A judicial determination of claims against the state was first felt to be a necessity in connection with the state ownership and management of canals. It was committed to a board of canal appraisers by act of 1870, chapter 321. For other claims against the state the legislature, in 1876,[4] created a board of more general jurisdiction, called the board

[1] U. S. Rev. Stat., § 1089.

[2] Gordon *vs.* U. S., 2 Wall. 561; for opinion see 1 Ct. Cl. Rep., p. xxiii.

[3] Suppl. Rev. Stat., 2d ed., p. 559.

[4] Laws of 1876, ch. 444.

of audit, consisting of the comptroller, the secretary of state and the state treasurer. These two boards were finally merged in 1883 into a more independent commission, called the board of claims,[1] consisting of three commissioners, two of whom must be counselors of the supreme court. An appeal from the awards of this board lies to the court of appeals.[2] The awards are reported to the legislature, and require a special appropriation to become payable; so that now, as before, the final disposition of claims against the state depends upon legislative action. It was plainly the intention of the legislature, however, to assimilate the powers and proceedings of the board of claims to those of a regular court, and the necessary appropriations are made as a matter of course and without a re-examination of the merits of the respective claims.

Whether the determination of private claims against the government be committed to a court with full judicial powers or to a board of a special character, the view that such claims receive judicial consideration as a matter of grace rather than as a matter of right may find expression both in limitations of jurisdiction and in a number of peculiar features distinguishing the statutory remedy from an ordinary action. These special features correspond about to what are known in the civil law as *privilegia fisci* — privileges which the spirit of modern legislation does not favor. The New York and the federal statutes differ in this respect. The only advantage which the New York law gives to the state is a short period of limitation—two years—while the federal law recognizes the ordinary six years' limitation. Otherwise the federal statute is far more favorable to the government, although the tendency is to place claimant and government on a basis of greater equality. So, under the former law, no party in interest had the right to testify for the claimant,[3] but this provision was repealed in 1887. The government has a right of appeal in every case; the claimant only where a certain amount is involved. A new

[1] Laws of 1883, ch. 205. [2] Laws of 1887, ch. 507.
[3] Rev. Stat., § 1079.

trial is granted in favor of the government at any time within two years upon any evidence of wrong, fraud or injustice; in favor of the claimant only at the same term in which judgment is rendered and only upon the same grounds on which a new trial is granted at common law. Any fraud practised or attempted in the prosecution of the claim forfeits the claim, *ipso facto*.[1]

Special safeguards against fraudulent claims are certainly justifiable. The government is more exposed to fraud than an individual; and the public interest, which is the interest of nobody in particular, may justly claim the special protection of the law to counterbalance the natural watchfulness with which private interests are guarded. But the privileges of the government should not go beyond the call of such natural disadvantages. Neither under the federal nor under the New York law are issues of fact tried by a jury. This, perhaps, can hardly be called a governmental privilege, but it characterizes the nature of the relief by showing that the constitutional guaranty of a trial by jury is not considered as applicable.

Of greater importance than these *privilegia fisci*, privileges relating chiefly to procedure, are the limitations imposed upon the jurisdiction of the tribunals hearing claims against the government. Such limitations, while they do not amount to an absolute denial of the liability of the government on claims covered by them, in principle leave the claimant in the position in which all claimants were formerly: he is relegated to his common law and constitutional right of petitioning the legislature for relief. Of course the legislature can by special act provide for the judicial hearing and determination of any claim, creating a jurisdiction for that purpose. This course is frequently resorted to by Congress, and the power to refer specific controverted questions to the court of claims is also vested in either house of Congress, or any committee of either house, and in any executive department.[2]

[1] Rev. Stat., § 1086, Act of April 30, 1878.

[2] Act of March 3, 1883, §§ 1, 2. Act of March 3, 1887, § 14.

The jurisdiction of the court of claims originally embraced all claims founded upon any law of Congress, or upon any regulation of an executive department, or upon any contract, express or implied, with the government of the United States, and all claims referred to it by either house of Congress.[1] It was subsequently extended to cover counter-claims of the government, and other specific classes of cases were added from time to time. It was the evident desire of Congress to promote still further the liberal policy of allowing suits against the government which led to the passage of the act of March, 1887, known as the Tucker Act.[2] With certain specific exceptions this act extended the jurisdiction of the court of claims and the concurrent jurisdiction of the circuit and district courts to

> all claims founded upon the constitution of the United States or any law of Congress, except for pensions, or upon any contract express or implied with the government of the United States, or for damages liquidated or unliquidated in cases not sounding in tort, in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity or admiralty if the United States were suable.

This enumeration would seem to cover all private causes of action except tort. The supreme court, however, has taken a different view. Inasmuch as the law makes no express provision for the satisfaction of other than money judgments, it was held that the jurisdiction of the court extended only to money demands.[3]

> It seems [the court said] that in point of providing only for money decrees and judgments the law is unchanged, merely being so extended as to include claims for money arising out of equitable and maritime as well as legal demands. We do not think it was the intention of Congress to go farther than this. Had it been, some provision would have been made for carrying into execution decrees for specific performance or for delivering the possession of property recovered in kind.

[1] Rev. Stat., § 1059. 1 Suppl. Rev. Stat., 2nd ed., p. 559, note.
[2] 1 Suppl. Rev. Stat., 2nd ed., p. 559.
[3] U. S. *vs.* Jones, 131 U. S. p. 1.

The court therefore refused to compel the issue and delivery of a land patent. Two of the justices[1] dissented, and the dissenting opinion says:

> The manifest purpose of this new act was to confer powers which the court of claims did not previously have, and to authorize it to take jurisdiction of a class of cases of which it had not cognizance before. To say that under such circumstances the new statute is to be crippled and rendered ineffectual in the only new feature which it has in regard to the jurisdiction of that court, is in my mind a refusal to obey the law as made by Congress in a matter in which its power is undisputed. It is clear to me that Congress intended by this act to enlarge very materially the right of suit against the United States, to facilitate this right by allowing suits to be brought in the circuit and district courts where the parties resided, and that it also designed to enlarge the remedy in the court of claims to meet all such cases in law, equity and admiralty against the United States as would be cognizable in such courts against individuals.

As construed by the majority of the court in this case, the act of 1887 made but a very slight advance in the development of the right of suit against the government; for the principle laid down in the opinion seems to cover all claims requiring specific performance and all suits in ejectment, if indeed the latter are not included in the exemption of causes of action sounding in tort — another difficult question involved in considerable doubt.

In view of the difficulties which have arisen through enumerating the causes of action in defining the jurisdiction of the court of claims, the New York law must be considered as marking a distinct step in advance. It confers upon the board of claims jurisdiction over all private claims against the state and counter-claims presented against them. The term private claims is not further defined, but it doubtless means all claims of private parties against the state, and not merely claims arising from private causes of action. This would make the jurisdiction co-extensive with the liability of the state; in other words, the question of juris-

[1] Miller and Field.

diction would be eliminated entirely, and the question of liability presented as one purely of substantive law. This construction seems to be demanded by the constitutional provision prohibiting the legislature from auditing or allowing private claims [1] — a provision which has, however, been construed not to prevent the legislature from removing disabilities and creating legal causes of action, and referring claims thus legalized to the board of claims for judicial action and determination.[2]

The foregoing statement of the law with regard to jurisdiction over state and government would be incomplete unless supplemented by a reference to the various schemes devised by the ingenuity of private claimants, and especially of creditors of defaulting states, in order to overcome the plea of want of jurisdiction in cases where the sovereign power did not consent to be sued. Two of these devices may be very briefly disposed of. The defaulted bonds of Louisiana being largely held by citizens of other states, who found themselves without judicial remedy or redress, several of these states were induced to take from their respective citizens assignments of their claims in order to prosecute them before the Supreme Court of the United States, under its constitutional jurisdiction over controversies between two or more states. The suits were to be brought in the name of the state but for the use of the assignors. The supreme court, however, insisted upon regarding the actions instituted by the respective states as suits brought really by private citizens, in contravention of the spirit of the eleventh amendment, and declined to take jurisdiction.[3] The second device was still more ingenious. The eleventh amendment prohibited only suits against one of the United States by citizens of another state, and was silent as to suits brought against a state by its own citizens. Now it was argued that the judicial power of the United States, irrespective of parties, extended to all cases in law and equity

[1] Art. 3, § 19.

[2] Cole *vs.* State, 102 N. Y. 54; O'Hara *vs.* State, 112 N. Y. 146.

[3] New Hampshire, *vs.* Louisiana, New York *vs.* Louisiana, 108 U. S. 76.

arising under the constitution and the laws of the United States, and that by the act of March 3, 1875, the federal circuit courts were vested with jurisdiction in similar terms, likewise irrespective of parties; consequently it was urged that the circuit court might take cognizance of a suit brought by a citizen against his own state on a federal question.[1] The supreme court, however, again stood upon an historical rather than a literal construction of the constitution, and held that the cognizance of such suits, which were unknown to the law when the constitution was framed, was not contemplated by its provisions.[2]

Under any broad and liberal interpretation of constitutional provisions these two attempts to obtain jurisdiction over a state against its consent were doomed to failure; upon an entirely different footing stands the third plan. Under our system of jurisprudence the courts have always to a certain extent exercised jurisdiction over the agents of the government; the administration has never claimed for its officers that complete immunity from the process of the civil courts in matters belonging to its own province, which in France was insisted upon as an essential part of the principle of the separation of powers, and which there led to the creation of a system of administrative courts. But state and government can act only through the persons of officers, and the question arises: How far does the jurisdiction over officers enable the courts to control the action of the state, and thus serve as a substitute for the wanting jurisdiction over the latter?

We must in this respect distinguish different cases. The courts may hold certain classes of officers liable in damages for non-feasance or malfeasance in their duties, but it is clear that this personal liability of the officer does not directly affect the action or the property of the state: in other words, the jurisdiction over officers affords no means of imposing a liability in damages upon the state or government. It is

[1] This reasoning seems first to have been suggested in the case of Harvey *vs.* the Commissioners, 20 Federal Reporter, 411.

[2] Hans *vs.* Louisiana, 134 U. S. 1.

otherwise where the relief demanded is specific in its nature — where it is sought either to compel an official act by the prerogative writ of mandamus, or to enjoin it by the equitable remedy of injunction, or to recover specific property or funds by the proper common law remedies. No doubt a judgment against the officer in these cases operates against the government in whose behalf he acts. And as a matter of fact this jurisdiction has always been used to subject the action of the administration to an effective judicial control. But the theory and frequently the fact is, that in these cases the courts really enforce the will of the state against the unlawful refusal of its agents to perform their duties; the jurisdiction of the courts is held to aid the administration, not to constrain it. This theory, however, becomes untenable where the state clearly asserts adverse rights, or where the judgment of the court virtually decrees specific performance of contracts which the state has distinctly repudiated by law; for in the latter case the law, even if unconstitutional, cannot be counteracted save through interference with the whole machinery of the government, the compulsion of its highest executive officers and a control of the public funds.

In cases of this kind the plea has always been advanced that the suit, while nominally against the officers, was in reality against the state or government, and therefore beyond the jurisdiction of the court. This plea of want of jurisdiction has confronted the United States Supreme Court in a number of important cases.[1] On principle the court has in its more recent decisions taken the stand that it will look behind the parties of record, and hold the suit to be against the state where the property and the interest of the state are thus directly involved. But on the other hand it will sustain the action where a distinct and specific right of person or property is asserted, and protection or relief is sought against its threatened or consummated invasion by the act of officers asserting an authority which is held to be void. The distinction has been carried to such a point of refinement that

[1] Beginning with Osborn *vs.* Bank, 9 Wheat. 738.

in some cases it seems to resolve itself into the question whether the relief sought is affirmative, when it will be refused, or negative, when it will be granted.[1] Suits have thus been entertained against the highest executive state officers to enjoin them from issuing patents to lands claimed by plaintiffs, although the right of the latter was merely equitable and their legal title had not been perfected.[2] As one of these cases has since been pronounced to go to the verge of sound doctrine, it is probable that the supreme court would refuse to go further and affirmatively order the issue of a land patent. The same court held an action to be improperly brought against the governor of Georgia for the foreclosure of a mortgage on a railroad, where the state held possession and the legal title, on the ground that the state was not only the real but an indispensable party to the action.[3] This case, too, must be held to be decided on the ground that the relief sought was affirmative in its character; for the mere fact that a question of title between the claimant and the state is involved will not necessarily oust the jurisdiction of the courts. Such at least is the inevitable conclusion from the decision in the Arlington case,[4] where the jurisdiction over officers was applied in such a manner as almost to nullify the exemption of the sovereign power from suit. This was an action in ejectment brought against officers holding on behalf of the government possession of land to which the United States claimed title. The United States appeared for the sole purpose of objecting to the jurisdiction of the court, on the ground that the real and proper party defendant was the government. The court, however, by a bare majority, held the action maintainable, and gave judgment in favor of the plaintiffs. The decision really amounted to an evasion of a substantial principle of law by a technical expedient; for the prerogative of the sovereign power not to be sued in its own courts in an action of ejectment becomes

[1] Compare Board of Liquidation *vs.* McComb, 92 U. S. 531, with Louisiana *vs.* Jumel, 107 U. S. 711.

[2] Davis *vs.* Gray, 16 Wall. 203. Pennoyer *vs.* McConnaughy, 140 U. S. 1.

[3] Cunningham *vs.* Macon, *etc.* R. R. Co., 109 U. S. 446.

[4] U. S. *vs.* Lee, 106 U. S. 196.

worthless if its instruments of action, by which alone it can accomplish its purposes, can be substituted in its place. If the sovereign immunity from civil suits is to be upheld, it should be loyally and logically applied; if it leads to such intolerable consequences and is so contrary to justice and the spirit of our law that the courts must seek to evade it, then the whole principle should be condemned and abandoned. This latter view seems to have dictated the prevailing opinion in the Arlington case: the principle was examined in both its theoretical and its historical aspects, and was found to be antiquated.

There are evidently cases where justice demands the adjudication of rights against the state, while the logic of the law apparently forbids it. Apparently, for the conflict is not real. It is believed that subjection to the jurisdiction of the courts is inconsistent with the nature of sovereign power. It is true that the courts themselves derive their power from the state. But the state is an exceedingly complex organism, and its functions are widely divergent. It is guided by proprietary interests, like an individual, in the management of its corporate funds and domain; by public, as opposed to private, interests in the general political administration; while its aim in the dispensation of justice is the purely ideal one of the preservation of law and of rights. The concentration of these various functions in one power would be impossible without a separation of organs. Therefore, the administration of justice in every civilized state is vested in organs which are, to all intents and purposes, independent of the government in the narrower sense of the term. Consequently, when the state appears before the courts on a question of property rights, a party in interest appears before an impartial arbiter, and the proceeding is not open to the objection that the state is judge in its own cause. Thus, on a true conception of the nature of the judicial power, the subjection of the state to the jurisdiction of the courts involves no inconsistency of functions. At the same time, the state retains its identity in the different spheres of its action;

it can use or abuse its sovereign power so as to control or pervert any of its functions. It would, therefore, be absurd to deny that the state can refuse to submit to the jurisdiction of its courts. But why, in the absence of a distinct expression of will, either by the constitution or by the legislature, should a tacit refusal be implied rather than a tacit consent? Would it not be reasonable to assume such a consent where the state descends from the plane of its sovereignty and enters into purely private relations, that is to say, in all civil causes of action?

It is urged that such submission to the jurisdiction of the courts would be against public policy, on the ground that it would be inconvenient and intolerable for the state to defend every executive act in a court of law. But does not the law afford sufficient protection by asserting a complete immunity from liability on the part of the state in most of its relations, just as a similar immunity has been found adequate to prevent vexatious suits against judicial and high executive magistrates, who yet are personally subject to the jurisdiction of the courts? Another argument drawn from public policy is that it would not do to vest the courts with power over the public funds and revenues.[1] But this argument overlooks the point that jurisdiction to hear and determine claims does not necessarily carry the power to enforce them. The position of the state in this respect is different from that of a municipal corporation. Where a judgment is recovered against the latter a court can issue mandamus to its governing body to compel the levy of a tax sufficient to satisfy the judgment; but the governing body of the state is beyond the reach of the process of the courts; and even where a continuing power to levy a tax in favor of creditors is vested in the financial officers of the state, the United States Supreme Court, at least, holds that an action against them is not maintainable, because it is virtually an action against the state.[2] Effective relief against

[1] Briggs *vs.* Lightboats, 9 Allen, 157, 162; Corkings *vs.* State, 99 N. Y. 491, 499.

[2] Louisiana *vs.* Jumel, 107 U. S. 711; Hagood *vs.* Southern, 117 U. S. 52; North Carolina *vs.* Temple, 134 U. S. 22.

the state could be secured only by making all judgments payable out of its unappropriated funds, or, where that would be unconstitutional, by allowing execution against its private property.

It doubtless affords the strongest theoretical argument against the jurisdiction of the courts over the state, that they are powerless to enforce their decrees. Courts do not usually take cognizance of causes unless they are able to grant effective relief, and it has been held that the mere right to sue without the right to enforce judgment is not a judicial remedy.[1] But this objection is theoretical rather than practical; for what is usually sought by the claimant, and what is demanded by the principles of individual right, is an opportunity for judicial hearing and determination of claims against the government; while the compulsion of a defaulting state presents a different question, which is beyond the province of civil jurisdiction. Where the state is suable at present, therefore, the tribunal as a rule has authority merely to determine claims, not to enforce them.[2]

But whatever may be the arguments in favor of this jurisdiction, the law is well settled against it, and is on the whole still strenuously supported by the current of judicial opinion. A change can therefore be brought about only by statutory enactment. The example of the national government and of the most powerful of the commonwealths cannot but aid a development which is so much in accordance with the spirit of modern private law.

II. *Liability.*

The statutes which provide a tribunal in which the government can be sued are generally silent on the question of liability. By implication they assume the possibility of legal claims against the government, and they seek to create a forum with authority to determine them. If, then, some legal liability existed before the remedy, and if it was neither defined nor

[1] R. R. Co. *vs.* Tennessee, 101 U. S. 337.

[2] Carter *vs.* State, 8 Southern Reporter, p. 836.

regulated by statute, it would naturally be presumed to continue unchanged. Even where, as under the federal system, the jurisdiction of the tribunal is limited, this does not mean that with regard to causes of action withheld from it, the liability of the government is on principle repudiated; such causes simply fall within the residuary jurisdiction of the legislature. But where the legislature is forbidden by the constitution to hear private claims, the limitation of jurisdiction is virtually a limitation of liability. It should, however, be observed that in the absence of, or in addition to, general laws granting the right to sue the government, provision may be made by legislation for special classes of cases, in which a remedy is afforded and a liability expressly or by necessary implication recognized; this was done by the Canal Acts of the state of New York, by the federal acts regarding Indian depredation claims (March 3, 1891), by that creating the court of private land claims (March 3, 1891) and by many others passed in Congress from time to time.

It is obvious that before the existence of a remedy there would be little occasion to define this liability, to establish its limitations and regulate its operation: it would be potential rather than practical. The action of legislative bodies in granting relief, lacking the guarantees of judicial procedure, would naturally be dictated by equitable considerations, if not by political or even personal influences. Under these circumstances the newly created tribunals have had virtually to create their own jurisprudence, and to develop a new body of law which is by no means in all respects firmly settled.

In the treatment of this subject the simplest distinction to be made is that between cases where a liability is expressly assumed by the government, or cast upon it by statute or the constitution, and cases where a liability results from certain acts or relations without such express declaration. On this basis we may have as causes of action, on the one side constitution, statute, contract, on the other implied contract and tort — all mentioned in the act of 1887 defining the jurisdiction over the United States.

A liability distinctly created by sovereign or governmental act or by contract, presents comparatively few difficulties. A money claim may arise under a constitution, where that instrument fixes the compensation of certain officers or forbids its reduction during a term of office; perhaps, also, where it provides that private property shall not be taken for public use without just compensation. A claim may arise under statute, not only where legislation directly provides for the payment of money, but in all the numerous cases where a liability is created for damages suffered through the act of the government or its officers. Whether a statute creates an individual right against the government, depends sometimes upon the nature of the relation; where, for instance, the law provides a salary for an office, the right to payment attaches, not to the appointment or to the legal title, but to the tenure of the office and the performance of its functions.[1] Government contracts, including loans, are on the whole governed by the ordinary rules applying between private parties, except, of course, in so far as the subject is regulated by statute.[2] Statutory provisions regarding contracts — authority to conclude, form, *etc.* — are very frequent, and modify the general law with respect to nearly every important class of public contracts. Most cases will, therefore, involve questions of statutory construction, not so much perhaps as to the obligations under the contract, as on the point of its validity in its inception. In this respect the government stands on a different footing from individuals and private corporations. Private contracts are as a rule informal, and the apparent and ostensible authority of the agent may bind the principal; but every one dealing with government officers is bound by their actual authority, by every requirement of form, even by the amount of appropriations, which may limit the power to incur obligations;[3] and this not only because all conditions precedent are matters of public law, of which every one must

[1] Butler *vs.* Pennsylvania, 10 Howard, 402.

[2] Donald *vs.* State, 89 N. Y. 36.

[3] Shipman *vs.* U. S., 18 Ct. Cl., p. 138; Dunwoody *vs.* U. S., 143 U. S. 578; U. S. Rev. Stat., § 3679.

take notice, but because it is a vital principle of public policy that the expenditure of public moneys should be hedged in by the strictest rules of law.

The federal statutes give the court of claims jurisdiction on implied contract, thus recognizing a possible liability on this cause of action. The term "implied contract" is vague enough to admit of a certain latitude of construction. It may mean a real contract resting upon concludent acts; this meaning seems to be within the language of the statute when it says: "contract, express or implied, with the government." But we also speak of implied contract when there is an obligation, not at all contractual, but created by law in order to prevent unjust loss or gain, incurred or made without consideration and against the reasonable and presumable intention of the parties. Such implied contract is likewise within the jurisdiction of the court of claims; for it has been defined to embrace cases of a consideration moving to the government, money received by the government to the use of others and money paid by mistake.[1] The practice of the United States Supreme Court in recognizing obligations on implied contract seems somewhat uncertain. So it has been held (not in a case against the government) that while the official relation does not constitute a contract as to compensation, yet, after the duties have been performed, an implied contract springs up for the payment of the salary.[2] The claim was here, in fact, based upon the statute, but the theory of an implied contract made it possible to bring a later statute, taking away the salary, within the constitutional prohibition of laws impairing the obligation of contracts.

It is generally held with regard to municipal corporations that where a public contract requires certain conditions as to form or otherwise which are disregarded, an obligation on implied contract will not arise from performance, because the purpose of the requirement might otherwise be nullified. But the United States Supreme Court takes a contrary view and allows recovery against the government on implied contract in

[1] Knote *vs.* U. S., 95 U. S. 149. [2] Fisk *vs.* Police Jury, 116 U. S. 131.

such cases.[1] The greatest difficulty, however, is encountered in distinguishing between implied contract and tort in cases where the government, through the unauthorized act of its officer, has received and is in the enjoyment of some benefit at the expense of some individual. An instance or two will illustrate this. Where an inventor is in constant communication with the government officers, exhibiting his inventions and urging their adoption, and they use a device covered by his patent, a contract to pay a reasonable royalty will be implied ;[2] but where the United States made use of a patented process against the remonstrance of a patentee, it was held that the court of claims was without jurisdiction, as no contract to pay could be implied.[3] Compensation has also been allowed, on the theory of implied contract, for the appropriation of private land to public use, where the government asserts no title and where the land can be held to have been taken under right of eminent domain.[4] But no implied contract to pay will be raised, where the possession of the land has been acquired and maintained under a different and adverse title,[5] or by the tortious act of an officer of the government.[6] From these cases it would appear that an implied contract requires the existence of some contract relation between the parties, some dealing with the claimant on the basis of his acknowledged right ; in one case at least, however, it has been held that where money of an innocent person has gone into the treasury of the government by fraud to which its agent was a party, such money can be recovered on implied contract.[7] But on the whole the liability on implied contract has not been allowed to be used as a means of impairing the immunity of the government in cases where it can make out a clear case of tort. The clearer the legal wrong and the more unjustifiable the act complained of, so

[1] Clark *vs.* U. S., 95 U. S. 539.
[2] U. S. *vs.* Palmer, 128 U. S. 262. Berdan's case, 26 Ct. Cl., 48.
[3] Schellinger *vs.* U. S., 24 Ct. Cl., 278.
[4] U. S. *vs.* Gt. Falls Manuf. Co., 112 U. S. 545.
[5] Hill *vs.* U. S., May 15, 1893.
[6] Langford *vs.* U. S., 101 U. S. 341.
[7] U. S. *vs.* Bank, 96 U. S. 30.

much more undisputed is the exemption of the government from legal liability.

For if the law appears to be well settled on one point, it is that the government, as a matter of principle, is not liable on tort. The federal statutes expressly exclude causes of action sounding in tort from the jurisdiction over the government. But the immunity is recognized by law without reference to jurisdictional limitations. It exists where, as in New York, the state can be sued on any cause of action. This irresponsibility for tort may be, and has been, placed on various grounds. Thus it is said that the tortious act can be committed only through the agency of an officer, and that the act of the officer is not the act of the government. This is the familiar plea of *ultra vires*, which has been repudiated by the courts in the case of ordinary corporations. It has also been held that laches, neglect of duty or wrongful conduct is not imputable to the government — that the sovereign must be considered as incapable of committing any wrong. This, however, is not an argument, but a convenient fiction. It has further been said that no liability can in any case be fastened upon the government except by its own consent, and that it cannot therefore be held responsible for any tort until it has expressly assumed such liability.[1] Nothing more simple and logical than this explanation, if it could be made to harmonize with a sense of right and justice. To satisfy this, the old argument of public policy has been used very frequently and with great confidence. In the language of Judge Story,[2] which has been quoted repeatedly by the courts,

> it is plain that the government itself is not responsible for the misfeasances or wrongs or negligences or omissions of duty of the subordinate officers or agents employed in the public service; for it does not undertake to guarantee to any persons fidelity of any of the officers or agents whom it employs; since that would involve it in all its operations in endless embarrassments and difficulties and losses, which would be subversive of the public interests.

[1] Rexdorf *vs.* State, 105 N. Y. 229.

[2] Agency, p. 319.

And the United States Supreme Court, quoting these words, adds :

> The general principle which we have already stated as applicable to all governments forbids, on a policy imposed by necessity, that they should hold themselves liable for unauthorized wrongs inflicted by their officers on the citizen, though occurring while engaged in the discharge of official duties.[1]

But, whatever the reasoning relied on, the principle itself has always been regarded as firmly established and has never, it seems, been questioned or denied by the courts.

Yet it may be interesting to inquire further into the principle, even at the risk of going into a discussion somewhat theoretical in its nature ; for a tort, far more than a contract, is apt to raise and involve fundamental questions of rights and legal relations.

Again it will be proper to make certain distinctions. It is of the essence of government, and therefore the highest duty of the state, that it should assume certain functions affecting the citizens — the preservation of the peace ; the protection of person and property ; the administration of justice ; the promotion of the public welfare. But these duties constitute no civil obligations ; they are beyond the operation of the ordinary rules of law. Some of these duties are perhaps capable of being raised into legal liabilities ; as, for instance, if the state should hold itself responsible for damage done to property in consequence of riots, as it does in Germany, or as municipal corporations are frequently held in this country. As a rule, however, these duties are of such a nature that they cannot bind the discretion of the sovereign power ; these obligations correspond to no private right on the part of any individual citizen, and they produce no private cause of action.

But the question of private right may arise in opposition to the action of the state, and it may present itself in two entirely different relations. In the first place the action of public officers representing the state in the exercise of public

[1] Gibbons *vs.* U. S., 8 Wall. 269, 274.

functions may exceed the bounds set to it by law or the constitution, and may invade or violate individual rights of person or property. In the second place, the state may enter into relations with its citizens similar to those existing between citizens individually, into which the element of public power does not enter, or enters but remotely, and may then, in connection with such a relation, by act or omission, inflict some injury upon a private right. This distinction, so familiar to the continental law of Europe, has more than once been recognized incidentally in the decisions of our courts, but has remained barren of legal consequences. It is based upon intrinsic differences in the action of the state, which may accomplish its purposes either by sovereign command or by using contract and property as its instruments, and which may become vested with rights that have no direct connection with its public functions.

Now, where the relation is that between sovereign and subject, *i.e.*, authoritative in character, an injury may be inflicted upon private rights in various ways. An officer may, in the exercise of functions entrusted to him, go beyond his lawful authority: he may use excessive force; arrest where he has no power to do so; inflict greater punishment than the law allows or the case warrants. Or an officer may invade private rights under an authority apparently lawful but resting upon an unconstitutional statute; or he may mistake his authority where the law is doubtful; or, where his action depends upon the existence of certain facts, he may err as to the true state of facts. It may be urged that in all these cases the state has no concern with the wrong done, that it is the personal act of the officer. Such, indeed, is the theory of our law; valuable in its assertion of a personal liability on the part of the officer, but, in so far as it denies any connection of the state with the act, repugnant to the general theory obtaining with regard to corporations — that, since every authority involves the possibility of its abuse, they are responsible for the acts of their agents done within the sphere of their employment.

Assuming the wrongful act to be imputable to the state — incident to the unavoidable imperfections of a machinery so complicated as its system of administration, the state enjoys, of course, by virtue of its sovereignty, the privilege of exempting itself from liability. A government which should hold itself responsible to all its citizens for any legal injury suffered by them through the exercise of public powers,— which, in other words, should guarantee the just and perfect operation of its administrative and judicial machinery, might find itself confronted with claims and vexed with suits to such an extent as to be driven to a limitation of its liability. But leaving aside considerations of public policy, the view that the tort is an act of the government by no means entails the government's liability as a logical conclusion. The rule that a tort creates a liability for damages is a rule of private law; it therefore applies to relations of the private law only. The position of the state, where it acts in the exercise of sovereign and governmental functions, is, however, entirely beyond the sphere of private law, and must be judged by different standards. If the courts were called upon to administer abstract justice, they might find ample ground in many cases for decreeing reparation of legal injuries by the state; but applying, as they have to, principles of the common law, they cannot evolve a liability of the state in its sovereign capacity, for the reason that governmental functions do not create civil causes of action, and that rules of private liability are inadequate to govern cases where no private relation exists. Where justice demands that the government should be made responsible for damages suffered through misconduct in the exercise of its public powers, express statutory enactment is required to create such liability.

The state, however, in dealing with the citizen, does not always act in the character of a sovereign who commands and compels, as a representative of law and authority; it can by virtue of its corporate capacity equally well entertain relations of the private law, becoming a holder of private rights and treating with individuals on a basis of equality. In order to

determine whether the state acts in a private law capacity, it is not always sufficient to analyze a particular transaction without reference to the purpose which it subserves and the system of which it forms part. We can imagine a contract between individuals for the carrying of letters; but the postal service of the government forms a great public institution, in which the element of profit is subordinate, the payment is disproportionate to the service rendered, and the rules of contract with its incidents are therefore to a great extent inapplicable. A payment of money into court is in form similar to a deposit under the private law; yet, such payment being merely a mode of protecting private rights that is auxiliary to the administration of justice, the government in receiving the money does not enter into a civil transaction and does not assume all the obligations of a depositary. Gneist therefore justly remarks that the liability of the consolidated fund in England for private deposits embodies a principle formerly unknown to English administrative law.[1] The fact that prisoners are held to labor does not fasten upon the state an employer's liability; for the employment is merely an incident to the prison discipline, and the state is therefore not liable for injury suffered through defective implements.[2] The same view is generally taken where the holding and management of property is required by some public function of the state, although it would be easy and proper in such cases to sever the element of beneficial ownership from the public functions to which it is incident (especially in cases of negligence in the care of public buildings).

But there are cases where the relation to which the state is a party is clearly private — where there is no direct connection with governmental or public functions. So where the government happens to manage industrial enterprises, where it owns lands escheated or forfeited to it, where it acquires railroad property through foreclosure of mortgages held by it, where it enters into contracts for the furtherance of its beneficial interests. Now whenever the government thus stands in the

[1] Gneist, Das Englische Verwaltungsrecht, II, 1031.

[2] Lewis *vs.* State, 96 N. Y. 71.

position of a holder of private rights, all arguments in favor of its immunity from tort that are drawn from public policy or from the nature of governmental functions, fall to the ground. In such a relation, its sovereignty need in no wise be involved — is, indeed, a mere accident. The obligations incident to the holding of property and the carrying on of industries are imposed by the conditions of social existence, and are essential to the proper functions of ownership. The justification of any exemption from these obligations must be found, not in the privileged position of the owner, but in the exceptional nature of the purposes for which the property is used. Granting that the state can hold property for purposes similar to those of an individual owner, it follows logically that it should hold on similar conditions. A privilege which cannot be explained by the public functions and powers of the state is anomalous.

The principal torts which may be imputable to the government in connection with its private relations, are negligence, non-compliance with statutory regulations, nuisance, trespass and the disturbance of natural easements. It is characteristic of these torts that they violate obligations which are cast by law upon the ownership or occupation or control of property, that they are sometimes not directly attributable to a specific act of any particular agent, and that the existence of the wrongful condition is usually of some benefit to the owner. The liability of the state in these cases is demanded not only by justice but by the logic of the law; its immunity cannot be placed upon any convincing arguments. It is to be regretted that the courts have always denied the liability of the sovereign in sweeping terms; but the cases so far decided do not perhaps absolutely preclude the acceptance of a more satisfactory doctrine.[1]

In order that the view here taken may not be regarded as theory pure and simple, it may be proper to corroborate it by the analogy of another department and of other systems of law. A municipal corporation, it is true, is no sovereign body; yet it is an integral part of the organization of government. The

[1] See Ballou *vs.* State, 111 N. Y. 496.

incorporation enables it to hold private rights and at the same time subjects it to the jurisdiction of the courts; its public functions are nevertheless governmental in character. Therefore, like the state, the municipality cannot be held liable for torts committed in the exercise of its delegated governmental powers; the public relation protects it from private responsibility. But where it acts in a private or corporate capacity for its beneficial interests, its liability for tort is clear.[1] Now the state, like the municipal corporation, can have private and beneficial interests, and it may likewise be subjected to the jurisdiction of the courts. If then the analogy of the state protects the municipal corporation from liability in its public relations, the analogy of the municipal corporation should make the state liable in its private and beneficial relations.

The law of Germany and France protects the administration from interference by the courts to an extent unknown to our law; yet it is well settled that the state, by entering into private relations, subjects itself to the jurisdiction of the civil courts and becomes liable like any other holder of private rights. The discussion in Germany as to whether it should be held liable on tort has turned only on the general question, whether a corporation can become liable for the torts of its agents; the immunity has never been asserted on other grounds, and the responsibility for torts committed in connection with purely private relations appears now to be the accepted law in both countries.[2]

A liability in tort would of course be barren if there were no jurisdiction over the state, but so would a liability in contract, which is yet undoubted. The liability, to be effective, demands the possibility of suit against the government, but as a matter of theory and principle the question of liability is independent of that of jurisdiction.

It may be well to summarize the conclusions arrived at in the course of these remarks, both as to the actual law and as to its possible improvements:

[1] Dillon, Municipal Corporations, §§ 975–985.

[2] Meyer, Deutsches Staatsrecht, § 149. Mayer, Französ. Verwaltungsrecht, § 58.

1. Jurisdiction cannot be exercised by the courts over the state except by its consent. This consent may be, and partly is, embodied in statutes providing permanently for suits against the government, with or without limitations of jurisdiction. Such jurisdiction should be generally recognized, at least with regard to private causes of action.

2. Where jurisdiction over the state does not exist, the courts should not take cognizance over suits against officers, to which the state would otherwise be a proper or necessary party. Such is the recognized law, with this modification, that the courts will enjoin an actual or threatened invasion of private property under pretended authority of the state.

3. Jurisdiction over the state does not mean power to enforce judgments against the state. All that can be required is a judicial examination of claims. Compliance with the judgment must be secured by statutory provisions or left to the legislature.

4. An expressly assumed obligation creates a legal liability on the part of the state.

5. A tort committed in the exercise of governmental functions creates no private cause of action against the state; where a liability is demanded by justice, it must be created by statute.

6. A tort committed in connection with private relations should give rise to a corresponding civil liability, with such statutory exceptions as may be dictated by public policy. This is not the recognized law, but seems to be demanded on general principles.

If some of these conclusions still rest in theory, it should be remembered that a true theory often foreshadows the actual development of the law; in so far as they are not recognized, it seems that the government places itself beyond the pale of those principles which constitute what the Germans call the *Rechtsstaat.*

ERNST FREUND.

VILLAINAGE IN ENGLAND.

NO one who recalls the progress of historical research in England, can fail to be struck by the fidelity with which it has followed the shifting political controversies of successive generations. During the troubled period of the Reformation the theme of scholars' pens was the extension of the jurisdiction of the "bishop of Rome" (as by act of Parliament they were bidden to designate the pope), his encroachments upon independent patriarchates and his invasions of the prerogatives of English sovereigns. When the Stuarts and their Parliaments were at issue, antiquaries and pamphleteers industriously raked among Lancastrian or Tudor precedents, according as they espoused the side of the Commons or of the kings. Within our own day have come the extensions of the franchise, the historic significance of which has been illuminated by Lord Beaconsfield's famous saying that "we are reverting to Anglo-Saxon institutions." Contemporaneously with these movements arose the schools of Bishop Stubbs and the late Professor Freeman, whose investigations of original documents, covered for ages with the dust of oblivion, have made our free Teutonic forefathers live again for us. And now, with the development of small proprietorships, whether in the independent form of Parliamentary freeholds or in the dependent form of allotments, the eyes of students are turning back to the peasant tenures of the ages before and following the Conquest. Mr. Seebohm's well-known work has long held the field. The most important that has since appeared is the volume of Mr. Vinogradoff on *Villainage in England*, the first instalment of an undertaking which proposes to lead us ultimately to the *origines* of the manorial system, as far back as they are to be traced in the records of the English settlement of Britain. Upon the subject of

villainage an extraordinary dearth of information yet prevails. The very complications of the tenure tempt to indolence and excuse inexactness. Whether his conclusions be accepted or not, Mr. Vinogradoff has at any rate amassed sufficient material and reduced it to a compass moderate enough to exclude the plea that a knowledge of the subject is not readily attainable.

Every one knows that the first thing a legal text-book has to say of villainage is that there were two kinds of villains, "villains regardants" and "villains in gross." The terms have suggested, with a force that not even the industry of Mr. Freeman could resist, that the first represented the ceorl, or free Saxon peasant, the last the theow, or Saxon slave. Mr. Vinogradoff, after reference to the Year Books, comes to the conclusion that they were mere lawyers' terms of art and "have nothing to do with a legal distinction of status." Now, it is no doubt true that the terms do not indicate two degrees of servitude. On the other hand, I hold that they mean something, and that something, a closer or laxer connexion with a manor. Mr. Vinogradoff prints in his Appendix II a very interesting case from the Year Book of 29 Edward III, where it is expressly urged that a man when he was, to quote the grotesque law French of the original, "allant et walkant a large a sa frank volunte come frank home," could not be said to be a villain regardant to a manor. And, with a frankness that almost disarms criticism, Vinogradoff himself acknowledges that Littleton, in declaring that a claim to a villain in gross is proved by prescription, is "not quite consistent" with his own exposition that "if the lord has to rely upon prescription, he has to point out the manor to which the party and his ancestors have been regardant, time out of mind." The two statements are in truth contradictory. The fact is that lawyers' terms of art come into being in a perfectly natural way. They are devised to express actually existing distinctions — the ossification, so to speak, of custom. They register; they do not create. Social changes empty them of their content in time, and they degenerate into mere instru-

ments of legal ingenuity — an apparatus of cabalistic signs for the confusion of laymen. To this level had these distinctions between villains sunk by the end of the sixteenth century. But that they once had an effective meaning is disclosed by a remark of Coke as to the right of action of a villain against his lord "for the death of his father, or of his other ancestors, whose heire he is." "There is no diversitie herein," Coke writes, "whether he be a villain regardant or in grosse, *although some have said the contrary.*" If the distinction between the two terms was originally what I take it to have been, it is quite intelligible that, while the right of action might be thought to lie with the lord of a villain regardant, it might be personal in the case of a villain in gross.

The main question as to the origin and significance of the terms is very full of difficulties, and neither the summary dismissal of them by Mr. Vinogradoff nor any solution that has been suggested conveys with it full satisfaction to the mind. Mr. Vinogradoff rightly goes back to the fountains of knowledge. He has traced the terms villain regardant and villain in gross through the Plea Rolls as far back as the reign of Edward II, before which time they do not appear to have existed. They both described the lowest class of dependents. This, we may remark, is confirmed by the precedents of grants and manumissions in Madox's *Formulare Anglicanum*, in which it is noteworthy, as will presently be seen, that while a "native" might be regardant to a manor, not one of the sales speaks of a villain regardant or even of a villain. We know from Britton and from Andrew Horne, the author or editor of *Le Myrrour des Justices*, that a "serf," to use the language of *Le Myrrour* — a "native," according to that of Britton — was annexed to the frank tenement of his lord. If he fled, his lord might pursue him as his chattel, apprehend and bring him back into his fee. Now, in the case printed by Mr. Vinogradoff in his Appendix II, taken from the Year Book of 29 Edward III, this doctrine is laid down of villains regardants. It is the right of the lord to take them at will. It is not, therefore, a violent inference that serfs, or

natives, and villains regardants were the same in legal status. We have a further indication of this in the statement of Littleton that a villain regardant could be granted away from a manor and then become a villain in gross. Clearly, if this were true of tenants in villainage generally, they might all have been reduced to serfdom, and could not be said, as they were said, to be *ascriptitii*. Serfdom is also implied in the case in question. The "master" pleads (*a*) that the servant was his "villain regardant" to the manor of C, and (*b*) that he was master of his services *and of him*.

Who, then, were the villains in gross? They were serfs unattached to any holding. Descended of servile parents, they were serfs in blood who, on payment of an annual "chevage," or head-money, by way of acknowledgment of their status, were allowed by the lord to seek their fortunes outside the manor. Britton speaks of these, "who hold nothing in villainage"—the terms villain regardant and villain in gross being somewhat later than his time. Blackstone understood the distinction and points to it by calling villains in gross villains "at large." Sometimes the chevage was compounded. The non-compounding *capitagii*, that is, of course, the great majority, were sworn to continue their payments. "As long as they pay chevage," Bracton tells us, "they are said to be under the authority of their lords, nor is the power of their lords dissolved; and when they cease to pay it, they begin to be fugitives." The chevage was the evidence of the prescription which, according to Littleton, had to be proved.[1] The personal relation of the lord to the serf was left; the praedial relation had ceased to exist. This is indicated by the plea given by Britton as, apparently, the equivalent of the later plea of villain regardant. According to Britton, it was incumbent on the lord to prove that the villain claimed was his "astrier," the Anglo-Saxon "heord faest," and "resident in his villainage." Mr. Vinogradoff, who

[1] Mr. Furnivall, in Ballads from Manuscripts, I, 14–15, gives a Scotch deed of 1220 by which the Prior and Convent of St. Andrew's grant a license to their "nativus," G. M. "quod erit cum domino I," on condition of the yearly payment of one pound of wax.

mentions this, does not seem to see clearly how this formula stamps the difference between the two. His summary (page 56) that "villain in gross" means a villain without further qualification, while "villain regardant to a manor" means villain by reference to a manor, is scarcely adequate.

The disappearance of the system implied in the term villain in gross was due to a combination of various causes. The rule that a sojourn on land of ancient demesne of the king or in a chartered town for a year and a day conferred enfranchisement was largely taken advantage of. The expense of searching for and reclaiming fugitive serfs must have far exceeded their value when recovered, and the lord would often save his pains and his pocket by levying the chevage on the serf's pledges or relatives, as an example given by Mr. Vinogradoff from the Common Plea Rolls of 29 Edward III shows us sometimes happened. Above all, the pestilences of the fourteenth century and the enclosing movement which followed them must have finally accomplished the change. It became the interest of the lords to replace men by sheep, as Sir Thomas More complains in the *Utopia*. They probably offered no obstacles in the form of exactions to any one who might seek to leave their manors. On the contrary, as we know from the demands of the insurgents of 1536, they raised their fines on renewals of leases of demesne. The arrangement which had originated in pecuniary considerations on both sides naturally came to an end when those considerations were reversed.

In dealing with the rights and disabilities of villains Mr. Vinogradoff throughout his work appears to halt between two opinions. The first essay conveys the general impression that the villains were a servile class, wholly dependent upon the will of their lords for such concessions as in course of time they may have received. On the other hand, the drift of the second essay is to show that behind the manorial system lay the superseded but still partly operative organization of the free community. To establish this — and this I regard as the most valuable portion of Mr. Vinogradoff's work — it was necessary to emphasize all those legal incidents of villainage

which redeemed it from servitude. The two parts of the work do not hang together.

It may be said that the business of the historian is to stick to truth and not to elaborate systems which can only be made to accommodate facts by resort to the Procrustean method. As a general proposition that is incontestable. The fault that may be urged against the first of Mr. Vinogradoff's essays is that while he accumulates an immense mass of valuable facts, he is himself somewhat overwhelmed by them, and has failed to grasp the key to the problems they present. In his first essay there is a general identification of the terms *servus*, *villanus* and *nativus* with respect to personal condition as well in actual practice as in legal theory. As to the latter, there is *prima facie* something to be said in favor of the identification, though even here there are, as I shall presently show, two sides to the question. Of this Mr. Vinogradoff appears to have become aware by the time he had reached his appendix. But if practice conformed to theory, how could a peasantry indiscriminately reduced to serfdom have attained freedom, unless by some emancipating act like that of Alexander II in Russia? The fact is that there were two schools of law. The one, based upon the Roman codes, has survived in the pages of Bracton and Britton. The other has been handed down to us only in *Le Myrrour*, though we may take it that the author of the unfinished *Quadripartitus*, lately re-discovered by the German scholar Liebermann, belonged to the same school. But *Le Myrrour's* superior fidelity to English usage is discernible from the compilation ascribed to Ranulf Flambard, called the Laws of William the Conqueror, from the Laws of Henry I and from the Great Charter.

This is not the occasion to enter at large upon the merits of these rival schools. In his Appendix III Mr. Vinogradoff gives an interesting review of *Le Myrrour*. But in my opinion he fails altogether to do it justice, and his work has suffered by his neglect to draw from it. According to Coke, *Le Myrrour* was written not later than the reign of Edward II. It consists of two portions, of which the latter undoubtedly

belongs to that age, the former to an earlier period. It is with this earlier portion, in connexion with villainage, that we are specially concerned. The book as a whole is a conservative exposition of the law of England, written as a protest against the Romanizing tendencies of Bracton, Fleta and Britton. It sets forth the rights of villains in general accordance with the codes I have cited, as well as with the general practice of the courts. To the courts such codes, or at any rate the usages they embodied, and not the abstract principles of the civil law, furnished the precedents of decisions. And the leanings "in favor of liberty" which marked them were reinforced by the precepts of the church. I do not desire to underrate the work of Bracton or of Britton or of Fleta. But when we find all three of them servilely copying out the titles of Justinian's *Institutes* and presenting them to us as the principles of law recognized in a country where Justinian's *Institutes* had been practically unknown, we may well hold their testimony suspect. And we find in page after page of these authors facts disclosed which are wholly incompatible with their initial principles. How, for instance, if the villain was a slave, did the courts come to allow him to be capable of an independent contract with his master? How, if all he had was his lord's, could he purchase and hire from his lord? How did the courts evolve from such principles the practice of protecting him in his holding when he had duly performed his services? The doctrines of Bracton and his school as to villainage are not merely inconsistent with *Le Myrrour*, with the codes and with the practice of the courts: they are inconsistent with themselves. But by these great names Mr. Vinogradoff has been led astray. The investigator who sets out with the assumption that villains, serfs and natives are one and the same in origin, in rights and in disabilities, inevitably loses himself in the labyrinth of facts which seem to point at one time to their common servitude, at another to the comparative independence of villain tenants.

While the documents to which reference has been made were, in the spirit of *Le Myrrour*, careful to maintain the rights of villains, the application by the Romanizers of the standards

of the *Institutes* made short work of the distinctions between the various forms of dependent status. "In servorum conditione nulla differentia est," said the *Institutes*. Fleta copies the words. Britton paraphrases them, and at once the rift is seen in the symmetrical uniformity of the theory, when applied to English custom. "Ne nul ne poet estre plus *vileyn* de autre, car touz sount de vile condicion — qi qe unques est *serf*, *il est ausi pur serf* cum nul autre."[1] The very fact that Britton should have thought it necessary to amplify the simple proposition of Justinian imports suspicion as to the extent to which his theory was reconcilable with what he saw around him. He uses three designations, "villains," "serfs" and "pure serfs," where the Latin text has but one. "Villain is serf and serf is villain," he says in effect. But there are those, his expressions suggest, who distinguish between them. One of them, as we know from Mr. Nichols's learned edition, was an anonymous contemporary commentator upon his own text, "who subsequently filled judicial offices." This writer draws three distinctions in that class which Britton, on Justinian's authority, has pronounced indistinguishable. A *naif*, or native, he tells us, is a hereditary serf. A villain is he that comes afresh into servitude, from which he cannot depart, "*though he be of a free stock*." Evidently the writer is seeking a compromise between theory and practice. There are, he sees, incidents attached to villainage in English law inconsistent with the doctrine that villainage is serfdom. These must be connected, he surmises, with a strain of free blood which has carried with it some relief from the disabilities in the Roman code attendant upon servitude.

Let us now turn to the English school of jurists, as represented in *Le Myrrour*. "Villains," the author insists, "are not serfs," and from the fact that he heads his chapter on serfs with the words "*De Naifter*," we know that he considers *naifs*, or natives, and serfs to be identical.

> Serfs [he tells us] can purchase nothing but for the use of the lord. They do not know in the evening what service they shall do in the

[1] Britton I, xxxii, 3.

morning. Their lords may put them in irons, in the stocks, may imprison and chastise them at will, saving life and limb. They may not fly from, nor forsake their service, so long as they find that on which to live, nor is it lawful for any to receive them without their lords' will. If these serfs hold fiefs of their lords, it is to be understood that they hold them from day to day at the will of their lords, and by no certainty of services.

This uncertainty of service was the mark of serfs, or of what Bracton, forgetting his doctrine and falling back upon fact, calls "pure villains" (f. 208, b). It logically follows that in such a case performance of service cannot be pleaded in bar to an action, since service which is without limit can never be performed. Nor, conversely, need default be alleged to justify eviction.

Villains [*Le Myrrour* proceeds to say] are cultivators of fief dwelling in villages upland; and of villains is mention made in the Charter of the Franchises, where it is said that a villain may not be so grievously amerced as that his tillage (*sa gaigneur*) should not be preserved to him; for of serfs it makes no mention, for that they have nothing of their own to lose. And of villains their holdings are called villainages.

And the author concludes by appealing to the days of King Edward, the Golden Age to the English of the thirteenth century. With the great men of those days he compares, and comparing condemns, the lords of his own day — practisers, no doubt, of the doctrines of the Romanizing school — who by wrongful distresses and evictions had sought to reduce their villains to serfdom, a wrong for which, as he recalls, there was remedy by the writ *Ne injuste vexes*.

In the light of these very positive statements let us revert to the exposition of Mr. Vinogradoff. In the earlier part of his work, as has been said, he reduces the dependent classes to a dead level of serfdom. Possessed by this doctrine, he misreads the evidence incidentally disclosed even by the jurists whose servile Romanisms he follows. "A villain," he tells us, (page 61), "is born in a nest, which makes him a bondman." In the note he gives two references, one to a case of 1303, the

other to Bracton. Yet both these examples show that the term which Mr. Vinogradoff applies to a "villain," *sans phrase*, is used of a *nativus*, or *naif*. That these were very different classes appears from another case selected by himself (page 46, note 1). In 1274 two tenants summon their landlord before the king's court. They do not pretend to be freeholders; but they allege that they hold their land "by fixed customs and services." In other words, they claim to hold by villain tenure. The answer is significant. The defendant demurs on the ground that the plaintiffs possess no cause of action, save for life or limbs or bodily injury, they being his hereditary serfs (*nativi*). In the light thrown by *Le Myrrour* we can understand why the court refused to interfere. The allegation of fixed, or in the language of the pleadings, "certain" services, was intended to raise the presumption, though not the conclusive presumption, that the plaintiffs were villains. It may be taken that the allegation was false. Otherwise, as Bracton lays down (24 b), and as Mr. Vinogradoff himself elsewhere (pages 70, 73, 74) notes, an action would have lain on the covenant, even though the plaintiffs had been serfs. No doubt the "bond-conventioners" of Cornwall occupied the position of serfs under fixed customs, and were not villains, but what their name showed them to be. The existence of such classes leads Mr. Vinogradoff into difficulties when, with his preconception of the identity of villains and serfs, he approaches the question of tenure. The serf, as has been seen, was normally at the mercy of uncertain customs. From that Mr. Vinogradoff somewhat rashly derives the proposition that certain customs mark a free man. "Whatever the customs may be, if they are certain, not only the person holding by them, but the plot he is using are free" (page 78). Let us test this again by one of Mr. Vinogradoff's cases (page 80). It is taken from Bracton's *Note Book* (pl. 1103). The case is an assise of novel disseisin, tried in 1224–25. "The defendant" (I am quoting Mr. Vinogradoff) "excepts against the plaintiff as his villain; the court finds, on the strength of a verdict, that he is a villain, and still they decide that William

may hold the land in dispute, if he consents to perform the service." No wonder that Mr. Vinogradoff, relying not upon Bracton's book of practice, but upon Bracton's book of Romanizing theory, concludes that the procedure and theory were wrong. "Once the exception proved, nothing ought to have been said as to the conditions of the tenure." This is a strong line for a lay writer in the nineteenth century to take upon a judicial process of six centuries ago. I venture to affirm, on the contrary, that the judgment was a perfectly sound one and consistent with what we know of the practice of that day. Its justification is in *Le Myrrour*. That which leads Mr. Vinogradoff to his hasty criticism is the wide divergence between the practice, which recognized existing distinctions, and the theory, which, in slavish imitation of the sharp definitions of Roman law, attempted to mould them into uniformity.

Let us pursue this "exception of villainage" as we find it in the pages of the Romanizing lawyers. And here we perceive how the theorists were constantly showing themselves alive to the exigencies of practice. It was not enough to give possession that the lord should establish his "exception." Without the *Bref de naifté* (Bracton's *breve de nativis*) the lord could not recover the villain. Nor did the word native in this connexion represent a mere confusion of terms. It implied that the demand would have to be supported by specific *nativitas*. We get this again from Britton himself, in the passage I have already quoted in another connexion. In speaking of the "exception of villainage" in his chapter on "Exceptions," he says: "Or he [the lord] may say that the plaintiff is his villain *and* his astrier *and* abiding in his villainage." As the learned editor of Britton, Mr. Nichols, here notes: "That is, as I understand it, in the lord's villainage, or *upon his demesne*." This interpretation, in itself obviously correct, is fortified by the commentary of Selden upon a similar passage in the eighth chapter of Hengham's *Summa*. The passage in Britton discloses *malgré lui* how different the practice of the courts was from the doctrine of the books. The lord has to prove that the plaintiff against

whom he raises the "exception of villainage" was something more than a villain. Had the Romanist doctrine, which sunk all distinctions, been true to fact, there would have been no meaning in two-thirds of the proof which Britton admits was exacted. The *astrum*, literally, the hearth, "must be taken for the lord's dwelling-house, or such-like," as Selden explains. It is the strongest word that could be employed to convey the idea of that close personal attachment to the lord implied in domanial serfdom. It lends significance to the fact, mentioned by all writers, that the proceeding was formerly directed against a native. If the claimant, says Bracton, be a serf — observe, not a villain — he can be excepted to; and Bracton identifies serfdom with the condition of a native. Britton tells us that when, upon an exception, the plaintiff is "attainted for the villain of the tenant, the tenant may well take him and put him in the stocks, or drive him off the land, as he should his villain." Now we know from *Le Myrrour* upon what class such rigors might be inflicted. Not upon villains, it tells us expressly, but upon serfs.

To recur to the case of 1224–25, the decision of which is impugned by Mr. Vinogradoff. If, in the practice of English law, villain, native and serf were all one and the same class, undoubtedly Mr. Vinogradoff is right, and when the fact of villainage of status was established, as it was upon the trial in question, nothing remained but for the lord to exact the penalties. But the villain customs, as set out by the defendant, who was perhaps a disciple of the Romanizing doctrinaires, were fixed, or "certain." Now we know from *Le Myrrour* that the *differentia* of a villain from a serf was that the serf had no certainty of service. And the judgment was evidently founded upon a recognition of this distinction. The defendant, on the other hand, was anxious to prove serfdom. He elicited the fact that the plaintiff's brother had been sold by him. This, of course, was not conclusive, as the sale might have been in satisfaction of debt (*obnoxiatio*) and the jury expressly found that there was no other evidence of serfdom, such as *merchet, etc.* The plaintiff was adjudged

a villain holding in villainage, and, instead of handing him over to become the defenceless property of the lord, the court confirmed his title to the land in dispute, subject to the condition of rendering the services ascertained to be due.

The two-fold decision of the court in this case — a decision as to the status and a decision as to the tenure — assists us in understanding what really constituted a villain, as distinguished from a native, or serf. The compilation ascribed to Ranulf Flambard, at the close of the eleventh century, called The Laws of William the Conqueror, carefully distinguishes *coloni* from *nativi*. The former, as Bishop Stubbs has remarked, correspond to "the ceorls of the preceding period." It is expressly laid down by the code that it is not "lawful to the lords to remove the cultivators from their land as long as they can do rightful service." On the other hand, natives are regarded as disposed to leave their occupations, in order to avoid the services associated with them. Clearly, then, while the interest of the *colonus*, or "villain," as it appears in the French text, was to remain on his holding, that of the native was conceived to be to escape from his servitude. This is the difference of status which underlies questions of villain tenure. Despite the attempts at identification, the difference continued to receive recognition from the courts.

If we pass from status to tenure, again an underlying distinction presents itself. Of the criterion of certain and uncertain services we have already spoken. To understand the foundation of the distinctions of tenure we must go back to the constitution of the manor itself. It was held to consist of land in demesne, wastes and land in villainage, or customary land. We are all familiar with the doctrine, popularized by the late Mr. Joshua Williams's admirable text-book upon the *Principles of the Law of Real Property*, that no one is an owner of land in England save the sovereign. It is a useful theory, since it frees the appropriation of land for public purposes from the taint of confiscation of private right. Expressed in the language of the feudal period, "the Conqueror got, by right of conquest, all the land of the realm into his

own hands, in demesne." The expression, it needs hardly be said, was suggested by the organization of private manors. The demesne was divided into "bordland," the land which immediately supplied the wants of the manor house, and land held "at will." In Domesday the bordland is called "inland," as opposed to "upland," or land *in servitio, i. e.*, held by services. In that portion of land which was retained in demesne, the tenure of the cultivator was as precarious as in the description of *Le Myrrour*. He was working for the lord's profit, originally to supply him with food. The land he tilled was from that point of view called *terra nativa*, and he himself a man "of native blood." This is the class described by Britton as "pure villains of blood and tenure, who can be ousted from their tenements and their goods at the will of the lord."

In process of time a variety of circumstances combined to improve the condition of these tenants. To absentee landlords it became a convenience to receive their dues in money, a change at first, as Mr. Vinogradoff's pages show, sometimes regarded as a hardship upon the peasantry. A fixed payment would of course be essential; and in this way, almost imperceptibly, land passed out of demesne into customary land. A more formal method was to summon a manorial jury, marking the conversion of demesne into customary land by a solemn assize, whence the designation "*terra assisa*." In the history of the manor of Castle Combe we find a wholesale conversion of demesne into customary land, the apportionments corresponding to the area of the existing holdings in villainage. But here and there, as Fitzherbert observes, the old system survived, and bondmen held with no more certainty of tenure than in the days of Bracton and of *Le Myrrour*.

Although, as we hear from Littleton, even free men were occasionally found ready to undertake land upon the tenure and services of serfs, such a symptom of land hunger was doubtless regarded by most people, as it was by him, as "an act of insanity." But there is no question that when, in the fourteenth century, labor became scarce, lords were glad enough to grant out their demesne in villainage to freemen, or,

as frequently happened, to lease it for terms of years. With the land the lessee took the natives, or bondmen, upon it. It was to his interest to retain them in this condition, he acting as himself the supervisor of their gratuitous labor. It was upon such estates, it may be suspected, that the class lingered longest when it had disappeared in most parts of the country.

It must not be left out of sight that, as laid down by all the jurists, tenure did not directly affect status, though this principle was so far departed from that certain legal inferences "in favor of freedom" were drawn by the courts from tenure to status. When men "of native blood" became customary holders the taint of their status still clave to them. It was to the lord's interest that this should be the case. According to the lawyers, villains by blood, or natives, were subject to tallage without limits (*de alto et basso*) at the will of the lord. But the limitations upon the exercise of this right, though originally imposed by no external authority, were early prescribed by economic convenience, and to tallage villains "to destruction" was legally condemned as "waste." Customary compositions, therefore, generally established themselves, and the persons upon whom they were obligatory, whether with respect to status or to convention, were duly inscribed upon the manorial rolls.

The difficulties attendant upon Mr. Vinogradoff's disposition to slur over the distinctions between the various dependent classes recur in connexion with ancient demesne. The doctrine of ancient demesne is one of the most interesting and important in the history of villainage. Ancient demesne was land which had been *terra regis* in the reign of the Confessor. This clearly points to a time when the kings of England were not conceived, as the Elizabethan lawyers asserted of the Conqueror, to have "all the lands of England in demeane." With respect to this land the persistent confidence of the English people in the equity of the royal saint asserted itself. "The laws of Edward the Confessor" were to be maintained on his lands, into whose hands soever they passed. The "men

of ancient demesne" were personally free and their services were fixed. But besides these privileges of tenure which, as the cases in the law books show, were largely shared by customary tenants, they enjoyed certain political and commercial advantages.

> Tenants are not bound to attend the county court or the hundred moot; they are not assessed with the rest for danegeld or common amercements, or the murder-fine; they are exempt from the jurisdiction of the sheriff, and do not serve on juries and assizes before the king's justices; they are free from toll in all markets and custom houses.

These exemptions were of considerable value and created a favored class distinguished by the title of villain sokemen. It was, however, rather out of tender care for the interests of the crown than for the welfare of its tenants that these concessions were upheld by law when the land had passed into private hands. As Mr. Vinogradoff shows (page 107, note 4) by an apt quotation from Britton, the demesnes of the crown were in theory inalienable. He quotes also, in illustration of this, from the Stoneleigh Abbey register an order by Edward I for an inquisition into the state of that property. The king explicitly contemplates the possibility of a resumption at some indefinite time, and the order alleges the need for protecting the crown against the changes which should impair the value of its reversionary interest.

To what class upon other estates did these privileged tenants correspond? Mr. Vinogradoff has no difficulty (page 112) in rebutting Mr. Elton's assertion that "it is only the freeholders who are tenants in ancient demesne." He states with perfect accuracy, citing Bracton, that on ancient demesne there are, besides villain sokemen and free tenants, pure villains too. He quotes the Stoneleigh register, which speaks of natives, or serfs, on ancient demesne, as distinguished from the regular customary tenants. These natives, or serfs, are in other registers called villains — a fact, I may add, which testifies to the confusion of names which came in with the thirteenth century, since the Laws of William the Conqueror translate "sokeman"

by "villein." But how is it that on ancient demesne manors a class which elsewhere Mr. Vinogradoff represents to have been regarded as homogeneous becomes differentiated? If on these manors the customary tenants or villain sokemen on the one hand and the natives on the other are completely distinct, how did the distinction arise? Surely the normal class distinctions prevailing on the lands of the Confessor must have had some parallel outside. And if so, there is at least a *prima facie* probability that the tenacity of custom would have ensured their survival.

It is in connexion with these admitted distinctions that Mr. Vinogradoff stumbles upon the key to the problems of villainage. Yet he does not seem to recognize the extent of its application. "It is," he says, "of considerable importance to note that the difference between villains pure and villains privileged was sometimes connected with the distinction between the lord's demesne and the tenant's land in the manor," in other words, the customary lands. Herein lies the anomaly of the tenure in ancient demesne, as well as the secret of the tenure in villainage generally. The peculiarity of villainage in ancient demesne was that the land was conceived to be, not customary land proper, but demesne held upon a customary tenure. That is the significance of the doctrine already noticed, that the king could not irrevocably part with it. It was in theory, as it were, "bordland," for the sustenance of the sovereign. But customary tenure, here as elsewhere, had at an early date been found more convenient than the exaction of labor from serfs. It is quite intelligible that, at a time when the king's existence was a perpetual progress, this should have made itself felt earlier upon royal than upon private estates. But with the Conquest the movement toward the substitution of the customary tenure was arrested and the customary holders, or sokemen, and the serfs remained two distinct bodies. Now if Mr. Vinogradoff had appreciated the importance of his point as to the distinctive character of holdings upon the lord's demesne, he would have used it to explain the position of natives, or serfs, in ancient demesne and else-

where. But his tendency, as has been seen, is upon other manors to follow the lawyers' attempt to identify the serfs with villains. Upon ancient demesne it is quite impossible for him to confound them with sokemen, whose difference of name protects them from such a mistake. But he has nothing to say of their presence there, and when a case meets him which turns upon their status, he dismisses it with the contemptuous epithet "astonishing," exactly as he condemns the decision of 1225.

The example referred to is given in full by Mr. Vinogradoff in Appendix VII (page 431), but may be best summarized in his own words:

> In 1294 some Norfolk men tried to get justice against Roger Bigod (Bygod in the original manuscript), the celebrated defender of English liberties. They say that they have been pleading against him for twenty years, and give very definite references. The jury summoned declares in their favor. The earl opposes them by the astonishing answer that they are not his tenants at all. It all ends by the collapse of the plaintiffs for no apparent reason; they do not come into court ultimately, and the jurors plead guilty of having given a false verdict. [Page 101, note 5.]

So much for the facts as stated by Mr. Vinogradoff. Now for the original, as printed in his appendix. According to the plaintiffs — and the allegation does not appear to have been traversed — the manor in question, of which they claimed to be tenants, was ancient demesne. As tenants of ancient demesne, they claimed to hold by fixed services. They complained that Roger Bygod and his predecessor in title (who was his uncle) had exacted from them services villain and uncertain. Now mark the answer of Roger Bygod. The plaintiffs, he avers,

> set out in the writ that they are the men (*homines*) of the same Roger of the manor aforesaid and tenants of the same manor, the which William and others [the plaintiffs] are not the men of the same Roger of the manor aforesaid . . . and further, they do not hold any tenements in the manor aforesaid, nor did they hold on the day aforesaid [the date of the writ], nor for a long time before that date, wherefore he demands judgment. . . .

The plaintiffs were six in number. Two of them in reply traverse the earl's denial and set out their holdings. One claims that at the dates of the issue of the writ and the statement of claim he held one messuage, one croft and half an acre of marsh land; a second, that he held one messuage and eight acres of marsh land. Both of these repeat that they are the *homines* of the earl. The other four plaintiffs traverse the earl's denials otherwise. They say that they sued out a writ against him twenty years before, being at that time the *homines* of the said earl and tenants of the manor aforesaid, and that they have prosecuted the action uninterruptedly ever since, reviving the writ whenever it abated. This plea probably refers to the employment of Bygod in military service, whether in Edward I's expedition to Palestine, or in Wales, where he is known to have been engaged in 1282. The service of the king, we learn from Bracton, was a cause of abatement of proceedings. The plaintiffs add that the earl's eviction of them during the pendency of the litigation ought not to found a plea against their claims as tenants. To this the earl took the technical objection that they had not revived the writ, and this was the first issue to be tried. That he had evicted them, may therefore be taken as true. Upon the day appointed to try the issue as to the writ these four plaintiffs failed to appear, and they and their pledges were "at mercy." From this it may be inferred that in their case the objection was good. In the case of the other two tenants a jury was empaneled, which returned a verdict that on the day and year aforesaid they were not the men of the earl nor tenants of the manor.

What did these two plaintiffs mean by alleging that they were *homines* of the earl and tenants of the manor? They meant that they were villain sokemen, entitled therefore, as they said, to fixed services and fixity of tenure. The evidence of their villainage was twofold. First, their holdings. As to these, it must be admitted that they were so small as to raise a presumption that the earl was right. Certainly they were not tenants of the normal holding of the *villani* of Domesday,

the virgate of thirty acres. Most suspicious of all, they do not appear to have held land in the open fields, but marsh land, that is, in all probability, land of the wastes of the manor, which since the statute of Merton in 1236 was commonly accounted part of the lord's demesne. The area of the holdings is not, however, absolutely conclusive of the case. Hence the necessity felt on both sides for the other plea, that the plaintiffs were or were not the *homines* of the lord. The claim implied a special personal relation. We know what that relation was. Villains took an oath of fealty to the lord. "Fidelitatem fecerunt atque hominium," as the mediaeval phrase ran, though this last word perhaps refers more especially to homage, the mark of free tenants. The oath of the villain is given in the original Norman French in the Statutes of the Realm among acts of uncertain date, though, as Madox has observed, it is rather in the nature of a precedent. Now had the plaintiffs been able to establish their assertion that they were the men of the earl by fealty, a reciprocal obligation would at once have attached to the earl. Although, as ancient jurists have explained, the lord did not take an oath of fidelity to his vassal, he was, nevertheless, in effect equally bound. "That it was binding on both sides appears from the most authentick explanations of this engagement," says Wright in his learned work on *Tenures*. It is now possible to understand the plea which Mr. Vinogradoff considers "astonishing," that the plaintiffs are not the men of the defendant earl. The still more "astonishing" verdict of the jury, that "they were not the men of the aforesaid earl nor tenants of the aforesaid manor," seems a perfectly legitimate conclusion.

If that be so, who were the plaintiffs in the eye of the law? For they appear to have been *de facto* dwellers upon the estate. According to Mr. Vinogradoff's theory, they were victims of legal oppression, and the jury acted in collusion with the earl. It must, however, be remembered, that they were, in Mr. Vinogradoff's view, villain sokemen or tenants of ancient demesne. Now we know — indeed Mr. Vinogradoff has treated the point with much detail and precision (pages

113–116) — that tenants of ancient demesne were carefully protected by the king's courts. We also know that the king in 1225 was none other than Edward I, himself only a few years later the invader of baronial rights as represented by this same Earl Roger in a historic passage of arms. This was not a sovereign likely to tolerate aggressions upon a prerogative so valued as that which, on the plea of ancient demesne, enabled the crown to intervene in the administration of the estates of great feudatories. On general grounds, therefore, Mr. Vinogradoff's position is encompassed by improbabilities.

The explanation of the case and the justification, from a feudal point of view, of the verdict and judgment are to be found in a passage of Britton already quoted, describing the complete disabilities of "pure villains" in ancient demesne. They had no customary rights, but were literally tenants at will, or in the phrase of later lawyers, "tenants at will at common law." We know from Littleton that such were distinguished from customary tenants, also technically "at will," in that they did no fealty. It must be borne in mind that in Domesday, and even in the Hundred Rolls, tenants are classed by status as *liberi, villani, cotarii, etc.* The term "tenant at will," as a classification, belongs to a later period when, as Sir Henry Maine would put it, status was replaced by contract. Spelman tells us that "tenant" conveys to the English what "vassall" does to foreigners. "Vassall," we know from Du Cange, is a term properly used of the magnates admitted to the intimacy of sovereign rulers. And thus, though the plaintiffs against Earl Roger may be said to have held land at will, as Fleta describes servile tenure, the earl was probably justified in denying that they were "tenants" at all, or "men" by virtue of fealty.

I do not, as has been seen, regard Mr. Vinogradoff as uniformly successful in his treatment of the statements of English lawyers or of the points raised by English law, so far as the classes comprised under the name "villain" are concerned. But I have nothing but commendation for that part of his work which analyzes the manor and the village

community. In this he reproduces the results of his *Inquiries into the Social History of Mediæval England*, a work which has for five years past been in the hands of Russian scholars. Upon the origin of the system of intermixed strips he is at issue with Mr. Seebohm. While by Mr. Seebohm its explanation is sought in co-aration and in the allotment to coöperative households of shares correspondent to their contribution of oxen for ploughing, Mr. Vinogradoff adduces evidence to show that the system had "its roots in the wish to equalize the holdings as to the quantity and quality of the land assigned to them, in spite of all differences in the shape, the position and the value of the soil." In Russia and elsewhere, where at the present day such communities exist, nothing resembling co-aration is to be found. In England too, as Mr. Vinogradoff shows from mediæval documents, the "peasantry appear to have been commonly provided with small ploughs drawn by four beasts." And even if this were not so, Mr. Seebohm's theory has to meet the difficulty that "if the strips followed each other as parts of the plough team, the great owners would have been possessed of compact plots" (page 254).

An equally vexed question is the position and origin of the free tenants in a manor. According to Mr. Seebohm, the two divisions of manorial land were exhaustive — land in villainage and the land of the lord, or demesne. But Mr. Vinogradoff insists upon the number of free tenants everywhere to be found, quite apart from any suspicion that they represent grants by the lord. They were not bound by the uniformity of the villain holdings, but despite the irregularities in the areas of their possessions, they point to "a system similar to that which prevailed on villain soil" (page 328). "The traits which mark these are 'shareholding' and light rents. The light rents do not look like the results of commutation; the 'shareholding' points to some other cause than favors bestowed by the lord."

Writers who are the victims of legal theories, failing to reflect that if the theories sometimes express, they also sometimes conceal facts, are satisfied to conclude against the original

rights of freemen, because, in legal text-books, every holding presupposes a grant. Mr. Vinogradoff lays just stress upon the incidents attending many of these so-called grants. The surveys constantly record the rendering of trifling duties, the payment of a rose, of a peppercorn, or of sums of money as insignificant as a penny. These

> can have only one meaning — that of recognition. Trifling in themselves, they establish the subordinate relation of one owner to the other, and although their imposition must be considered from the formal standpoint of feudal law as the result of a feoffment, it is clear that their real foundation must often have been a submission to patronage.

Indeed, the very maxims of feudal law make for the same conclusion. "Every manor," said the lawyers, "has a court-baron incident to it"; that is, a court of freeholders — a conception impossible if the manor consisted originally of but two classes, the lord and his dependants.

The study of manorial courts has received a stimulus from Professor Maitland's well-known introduction to the second volume of the Selden Society's publications. Mr. Vinogradoff brings out a point in this connexion of which comparatively little notice has hitherto been taken, and which was even neglected by Mr. Seebohm. This is the relation between the village conceived of as a corporation, or, as Mr. Vinogradoff prefers to phrase it, "as a juristic person," and the court of the lord.

> The court rolls of Brightwaltham, edited for the Selden Society by Mr. Maitland, give a palmary example of this. The village of Brightwaltham enters into a formal agreement with the lord of the manor as to some commons. It surrenders its rights to the lord with regard to the wood of Hemele, and gets rid in return of the rights claimed by the lord in Estfield and in a wood called Trendale. Nothing can be more explicit: the village acts as an organized community; it evidently has free disposition as to rights connected with the soil; it disposes of these rights not only independently of the lord, but in an exchange to which he appears as a party. We see no traces of the rightless condition of villains, which is supposed to be their legal lot.

The village appears again in its corporate capacity when it hires land to farm, a proceeding of which we have records as late as the sixteenth century. Last of all,

> we have indications of separate village meetings under the manorial court. . . . In several instances the entries printed in the second volume of the Selden Society's publications point to the action of the townships as distinct from the manorial court and placed under it. In Broughton a man distrained for default puts himself on the verdict of the whole court *and of the township* of Hurst, both villains and freemen, that he owes no suit to the court of Broughton, save twice a year and to afforce the court.

I cannot help reflecting that if Mr. Vinogradoff had begun his work with this analysis of the manorial system and of its relation to the township, he would have reposed less confidence in the statements of the Romanizing school of lawyers. In the chapter in which he summarizes his conclusions he comments upon the difficulties which these points of manorial organization throw in the way of "the partisans of the servile community." The manorial court's

> body of suitors may have consisted to a great extent of serfs, but surely it must have contained a powerful free admixture also, because out of serfdom could hardly have arisen all the privileges and rights which make it a constitutional establishment by the side of the lord.

In a word, the manorial order has been superimposed upon the more ancient communal organization of the peasantry.

Enough has been said to show that there is warrant for a reconsideration of this question as left by Mr. Seebohm. The next trend of scholarly research will be towards the manorial system as it existed before the Conquest. America is to be congratulated on having produced in Mr. Andrews a skilful pioneer in this work. If any reliance may be placed upon tradition, we may expect to find in the records of these centuries, when submitted to the exacter scrutiny of inquirers of the new school, materials out of which we may remodel our conceptions as to the primitive social organizations of the English-speaking race.

I. S. LEADAM.

THE PARLIAMENTARY RÉGIME IN ITALY.

A MARKED advance has been made in the study of physiology and anatomy by the introduction of the comparative method. It may even be asserted that it is impossible to understand human physiology and anatomy unless comparison is made between man and other animals. An analogous method of studying the physiology of the social organism leads to equally important results. It is by comparing civilized with savage society that modern sociologists, following the traditions of inductive politics which have come down to us from Aristotle, have been able to lay the basis for a new science, whose progress during our century has been truly remarkable. The same method of study applied to the details of the organization of society ought also to be productive of great results. This is a truth of which M. Léon Donat shows thorough comprehension in his book on experimental politics ; and perhaps the day is not far off when the inductive method will acquire the same absolute mastery in political science that it already holds in physical science. It is from this point of view that a study of the effects of parliamentary rule in Italy appears to me worthy of consideration. If only the political phenomena which are due to specific and peculiar conditions in Italy can be separated from those which are due to general causes that might operate equally elsewhere, such an investigation promises to yield results of general validity and value.

Two facts chiefly strike the observer who studies the politico-social condition of Italy. The first, which manifests itself on the most superficial examination, is the almost entire absence of political parties. The other, which to be thoroughly understood requires minute observation, is the enormous extension of the functions of the state, which reduces almost to nullity the private initiative and economic independence of the citizens.

I.

As to parties, these certainly exist, in name ; but the names serve only to designate bodies of men united by certain strictly personal interests or by a certain community of temperament. It is impossible to find any real difference between these nominal parties as regards their attitude towards the political and social problems with which the country is confronted. To this rule the extremists, indeed, constitute an exception ; but they are not at all numerous. Strictly speaking, there are three extreme parties, of which, however, one only is really active, namely, the Socialists. The Republican Party maintains a proud reserve, and as to the Clerical Party, it effaces itself entirely on the political stage.

In Italy there are two kinds of socialism, of which one, agricultural socialism, is indigenous, while the other, industrial socialism, is only the reflection of French and, even more, of German ideas. This latter has its chief strength in Milan, which is industrially the most important city in Italy ; but it has some adherents in all the other centres of industry, such as Turin, Spezia and Genoa. The head of this party is the lawyer Turati, a resident of Milan, who publishes there two socialistic papers — a review entitled *Critica Sociale* (*Social Criticism*), and a small weekly paper called *Lotta di Classe* (*Struggle of the Classes*). This last name is sufficient to show that this party takes, in general, the point of view of Karl Marx. Turati is a man of much talent. He is well informed and active, and probably will yet play an important rôle in Italy. He has been lucky enough to make one important convert — Sig. de Amicis, the well-known novelist, who lives in Turin. The socialism of de Amicis, to tell the truth, does not go further than a vague desire for the amelioration of the lot of the people by collectivistic laws. He does not appear to have a very clear idea of the measures to be desired or of the effect which they would produce. But the simple fact that de Amicis has become a follower of the Socialists has increased their reputation and probably contributed, at the last

election, to the success of the Socialist candidate, Sig. Merlani. This election is very significant, as Merlani was opposed by General Pelloux, and Turin is a stronghold of the military party. In Milan the Socialist Party presented a very clear program — the contest of the masses against the bourgeoisie. Their candidates only registered a small number of votes. Turati had 352 out of 2,569 votes, while his chief opponent had 1,458. Another of their candidates, Sig. Gnocchi Viani, a clever man, obtained 620 out of 3,095 votes.

Agricultural socialism is spreading in the provinces of Mantua and Parma, and in some southern provinces, where it takes the form of a simple desire for the partition of the land. In former times its centre was in Romagna, but it now seems to have lost ground there. It was in Romagna that Cipriani, who was unjustly condemned and imprisoned by the Italian courts, was returned as a Socialist deputy. Under Crispi's ministry, it was thought well that the king should make a tour in Romagna, and, to mark the happy event, he was induced to pardon Cipriani. The king was well received by the people of Romagna; and since then he has loaded popular societies with his favors, for which reason socialism is losing ground little by little. But in the southern provinces there is a real agrarian question. To understand it thoroughly we must retrace the course of their history a little.

The revolution in Italy was chiefly the work of the bourgeois, who naturally sought to turn the new state of affairs to their own advantage wherever it was possible to do so. The north and centre of Italy were like other civilized countries in that the distinction of classes was not very definite; and here it was not possible for one party of the bourgeoisie to enrich itself directly at the expense either of the other party or of the people. It was necessary to have recourse to the means which politicians employ in all countries, and which are based upon the intervention of the state. But in the southern provinces the bourgeois, without renouncing these means, adopted others more direct, which caused their yoke to weigh very heavily

upon the lower classes. They took possession of the communal administration and drew from it a profit visible to the eyes of all. In the ancient kingdom of Naples many large fortunes were formerly made by the misappropriation of the property of the communes. The liberal régime has changed the form but not the substance of these usurpations. In certain places the property of the commune is leased to figure-heads, or to the friends of the communal councilors, at ridiculous rents; in others it is sold outright, and for next to nothing, to men of straw, all serious bidders being kept away from the auctions. The government does nothing to suppress these abuses, because the same persons who dominate the communal councils are the chief electors of the deputies, who, in their turn, employ their influence with the government to screen the misdeeds of their friends and partisans.

The oppression of the people in the villages has led to frequent uprisings. Racioppi, in the tenth chapter of his *Storia dei Moti della Basilicata nel 1860*, writes:

> The public land (*ager publicus*) has been occupied unjustly by the new bourgeois patricians. And this is how it happens that a man tries to gain justice with his own hands, while they whose duty it is to administer justice are deaf to his complaints and unmoved by his prayers. . . . Not finding the municipal representative, elected by the bourgeoisie, either very disinterested or very much concerned about social problems, the people endeavor to cut the Gordian knot by frequent insurrection.

These seditions have continued up to the present time, and we have had some very recent examples of them at Forenza and at Caltavuturo.[1]

[1] The outbreak at Forenza was attributed by the Minister of the Interior, in an address in the Chamber, February 22, 1892, to the establishment of a household or family tax (*tassa di fuocatico o di famiglia*), which is levied or not in a district according to the pleasure of the authorities of the commune. The deputy Giantureo, in replying, said: "The commune with which we have to deal was one of the richest in the Basilicata. A few years ago the council of the commune was dissolved, the royal commission having found that the serious charges of corrupt administration which had been brought against it were only too well grounded; but, notwithstanding this, the same members were re-elected."

Caltavuturo is a small commune in Sicily. The disturbance here, in which

The same oppression was one of the causes of brigandage.[1] Brigands have disappeared,[2] but the oppression under which the people suffer has not much diminished. Here is what Sig. Leopoldo Franchetti wrote in 1875 of the bourgeois class which rules the Neapolitan communes:

> Such persons being entrusted with the administration of the public patrimony, it was to be expected that many among them would consider it merely a means to the increase of their private fortunes; and in fact so prevalent is this idea that no attempt is made to conceal it, and when any one's financial affairs are in a bad condition it is not infrequent to hear it openly proposed that he should be elected to some office "to recoup himself." . . . The people in whose hands our laws apparently intend to place the local government are generally divided into two classes: those that have followed the lucrative career of local employees, and those who, while too honest to take part in these abuses, nevertheless do not prevent their occurrence. . . . In this way councils and local boards, and the boards of administration of charitable institutions and "pious works" are often full of ruined people who make an income out of the public patrimony. . . . The corruption of the chiefs naturally communicates itself to their subordinates. The surveillance of the communal funds gives the guardians and other inferior employees the opportunity of making a quantity of little perquisites of a lucrative kind, all of which are a loss to the fund. Every usurper of communal property corrupts as much as his opportunities allow him — that is, up to a certain grade in the social scale, when power takes the place of money. . . . The crown prosecutor of Avezzano, in his speech of January 8, 1872, on the administration of justice (page 29), laments the rapid felling of the trees in the district, and says that the forest guards connive at depredations; that they are so many Arguses in tracing the fagots which the poor man takes for himself, but are

many lives were lost, arose out of an attempt by the peasants to assert possession of land which they claimed was communal property and had been usurped by private individuals. Signor Colajanni declared in the Chamber, January 30, 1893, that the peasants were right and that the legal proceedings showed that more than 100 hectares had been usurped.

[1] *Cf.* the work of Rossi on *The Basilicata*, page 571, where the career of Coppa, a most ferocious brigand, is thus explained.

[2] The disappearance of brigandage is due mainly to the excellent roads which now traverse the country.

blind and dumb to the devastations that the rich make in the woods.[1]

In the rest of Italy many analogous facts occur; but the politician's art in stripping his fellow-citizens is there more refined, whereas in the Neapolitan communal administration it is brutally oppressive, and is the cause of an intense hatred for the bourgeoisie on the part of the poor people Their resentment has been ferociously manifested as often as the restraints of public force have been relaxed, and under similar circumstances we are likely to witness similar outbreaks.

The Republican Party is composed of the remains of Mazzini's party. It is not large, but it consists almost exclusively of men whose honesty and straightforwardness are above suspicion. As a rule, it refuses to take part in the political elections, allowing its adherents, at most, to assist in communal elections only. The *Fratellanza Artigiana* of Florence, which preserves the purest Mazzinian traditions, is in favor of absolute abstention from voting. At the last elections (1892) it declared:

> It is a sacred duty of the democratic party to abstain from voting, abandoning forever a war which serves only to harden the hearts and intellects of young men, by upholding a system against which the only thing that could succeed would be an open and loyal war made by the people in the name of the people, claiming their rights. Remember, electors, what Giuseppe Mazzini said! Whoever tries to perpetuate an institution which has had a death-blow is trying to do impossibilities. Galvanic action may simulate life for a brief moment, but cannot give it reality.

[1] Franchetti, The Economical and Administrative Conditions of the Neapolitan Provinces, pp. 28, 29. The author is a member of the majority, who almost always votes with the government, and is inclined to exaggerate the prosperity rather than the evil condition of the country. In political and social questions, as in courts of law, the testimony most worthy of confidence is that of persons who acknowledge facts contrary to their general mode of thinking, or who acknowledge their friends to be in the wrong. It is on testimony of this nature that I have tried as much as possible to rely, rejecting the testimony of persons who are speaking in favor of their friends and against their adversaries.

At Milan, however, a circumstance occurred which sent the Republicans to the ballot-box. Their candidate, Sig. de Andreis, was not elected, but he obtained 1121 votes against 1967 cast for his opponent, who was supported by the government. These 1121 votes, however, were not all given by the Republicans; many others voted for Sig. de Andreis, as a protest against governmental corruption and oppression. These facts tend to show how utterly null is the influence of the Republican Party in Italian political life.

The influence of the Clerical Party is scarcely greater. It is said that the pope, when asked why he would not allow the faithful to vote, answered: "When one of our followers gets into Parliament we lose him." Whether these words were said or not, they are full of truth. Not only those who get into Parliament, but those who have employment under the government — and nearly all have — become lukewarm partisans. Persons well acquainted with the families of the most clerical of the Roman aristocracy maintain that if they were to vote secretly whether or no they would give Rome back to the pope, the negatives would be more numerous than the affirmatives, since these families would not risk losing the enormous increase of value which the removal of the capital to Rome has given to their houses. It is often said that when the Clerical Party does vote in Italy, a great change will take place in Italian political life. This is an error. In Rome the Clericals vote at the communal elections, and yet they do not succeed in getting possession of the municipal offices. When the Syndic of Rome, Torlonia, was removed from office for having paid a visit to the cardinal-vicar, they had not the courage even to protest. Nor do they protest now when it is proposed to hold an exhibition in Rome, and to open it on the anniversary of the taking of the city by the Italian troops. Owing to the fact that the Clerical electors in Rome are mostly small trades-people whom the exhibition would benefit, some municipal councilors belonging to the party even voted in favor of the exhibition, in spite of the date selected for its opening — an evidence of lukewarmness of which the pope complained bitterly.

This last illustration brings us close to the limits where the confusion of Italian parties begins. In order to realize the degree of confusion that prevails, a comparison between English and American political leaders on the one hand, and Italian public men on the other, will be found serviceable.

In England and in the United States a certain connection is established between the names of public men and the ideas they represent; so that it is sufficient, for example, to learn that Mr. Gladstone has obtained a majority at the elections in order to know that he will propose to solve the Irish question; or to learn that the Democratic Party has triumphed in the United States under the leadership of Mr. Cleveland in order to infer that the country will not continue to increase its customs duties. With Italian politicians nothing of the sort is possible. For example, Sig. Minghetti fell from office because he proposed that the control of the railways should be given over to the state. His attitude on this question was not dictated by political exigencies; it was the result of a life-long inclination on his part towards state socialism. He considered it absolutely indispensable for the good of the country to take away the railways from the plutocracy who owned them; and to attain this end he did not hesitate to separate from his old companions who remained faithful to the liberal policy of Count Cavour, and thus to cause the dissolution of the old party of the Right. It would hence have been natural to suppose that this project would become the chief object of Sig. Minghetti's future efforts, as home rule has become that of Mr. Gladstone. Nothing of the sort. A very few years later, Sig. Minghetti was seen supporting a ministry, the chief point in whose program was the abandonment of the railways to private control. Further, Sig. Minghetti voted for a law which put the administration of the railways in the hands of a ring much worse than that which he had desired to destroy. Facts like these occur occasionally everywhere, but what is remarkable in Italy is that they are the general rule and that they seem quite natural. To realize this state

of things, the American or English reader must picture to himself a condition of feeling in England, for example, which would make it seem natural that the day after Mr. Gladstone had obtained office, Lord Salisbury should unite with him in laying before the House some bill to establish home rule in Ireland. And it is necessary to bear in mind that Sig. Minghetti was a perfectly honorable man, and that it would not enter any one's mind that he had other than honorable motives for his change of opinion. This, of course, is not always the case as regards the changes of opinion of other politicians. It is impossible to deny that in the case of many public men the desire for pecuniary advantage or for some satisfaction to their vanity counts for a great deal in their frequent changes of attitude. But whatever may be the motive for such changes, the Italian electors appear to regard them as natural, and show no disposition to hold their turncoat representatives to a strict account. There were in the last Chamber, for instance, a certain number of deputies of the extreme Left, who one fine day decided to support the government, and who took the name of "Legitimate Radicals." These gentlemen had almost all obtained their seats as violent opponents of the Triple Alliance; but on becoming friends of the government they became all at once partisans of the Triple Alliance and delivered speeches strongly contrasting with those which they had made before election. Notwithstanding this, the same electors re-elected them. This fact alone would not suffice to prove that the majority of the electors had become turncoats like their deputies, for in Italy the government exercises a great influence over the elections; but a certain number of the electors, at least, must have changed their opinions.

One result of this state of things, which is at the same time a proof of its prevalence, is the care with which many Italian public men avoid committing themselves. In order not to be embarrassed by the expression of their old opinions when the time may come to have new ones, they make a point of speaking in an ambiguous manner which recalls that of the

ancient oracles.[1] One candidate, who was chosen at the last elections, said that he would support any government which had the welfare of the nation sincerely at heart,— a declaration which certainly threw little light upon the speaker's personal convictions. Not all candidates carry the method so far; but in nearly all electoral programs phrases occur whose object is to avoid all precise treatment of the problems which are agitating the country. A candidate states, for example, that he "will vote for such military and naval expenditures as are necessary for the good of the country." This statement satisfies equally those people who believe that the good of the country requires an increase of these expenses, and those who believe that it is necessary, on the contrary, to curtail them. Another, following the program of Minister Giolitti, declares that he will not vote for new taxes unless they are absolutely necessary; which evidently commits him in no way, since new taxes are invariably declared necessary by those who propose them. A similar vagueness characterizes many recent utterances on the tariff question. By the customs law of 1887 Italy entered upon a policy of protection; yet the authors of the tariff and their friends have never frankly called themselves protectionists, as M. Meline and his adherents have done in France. They represent the new system as an inevitable expedient under the conditions of the times, and they speak much of the natural law of free exchange, which is to guide economic policy when circumstances make it possible. The lack of positive principle is illustrated by an incident during the discussion of the tariff law. Sig. Magliani, the Minister of Finance, at first declared himself opposed to a duty on foreign wheat (originally three francs on the 100 kilos, and now five francs);

[1] [American readers will find nothing peculiarly Italian in this phenomenon. Many of them will involuntarily recall the utterances of Lowell's "Candidate for the Presidency," in the *Biglow Papers, e.g.:*

"I stan' upon the Constitution,
Ez preudunt statesmen say, who've planned
A way to get the most profusion
O' chances ez to *ware* they 'll stand." —EDS.]

but when it became evident that the defection of the so-called Agrarians, who desired such a duty, might destroy the protectionist majority, Magliani supported the proposal and made the House vote it. While the question was pending, Sig. Grimaldi, Minister of Commerce, who had not been advised of any change of view on the part of the ministry, made a speech at Colle Val d'Elsa, in which he said that "the ministry would never accept a tax on foreign grain." Only a few weeks after this speech the duty on wheat was proposed by the ministry, and the bill bore the signature of Sig. Grimaldi.

Another consequence of this state of things is that, as a rule, the Italian electors have no platforms submitted to them, as in England or America. They are called upon to pronounce upon men, seldom on facts or events. There was an occasion lately (1890) when it seemed that a clear and definite question was to be laid before the country. The premier, Sig. Crispi, at least, had a program. He wished to follow a policy which was characterized as "imperial." According to Crispi, Italy was to become a great military and naval power, and was to play a rôle of great importance in the European political world. To carry out this policy the nation must make the necessary sacrifices ; it must not be niggardly in bearing taxes and incurring debts. Others — Sig. Jacini in the name of the Conservatives and Sig. Cavalloti for the extreme Left — regarded the economical question as first in importance. They wished for no new taxes and no new debts, and preferred to sacrifice the important rôle that Crispi proposed to play in foreign politics. Here, then, were two clear programs between which the country might decide. But, at this moment, Sig. di Rudini and his friends of the Old Right came to the front and executed a manœuvre which afterwards brought them into power, but which has increased, if possible, the confusion of parties. Di Rudini and his friends declared that both aims could be attained and both programs executed ; that, by economies in the budget, new taxes and new debts could be avoided and military expenditures continued on

a scale which would enable Italy to take a leading position in foreign affairs. This satisfied everybody — the court, which insisted on the maintenance of the Triple Alliance and the expenditures which such a policy necessarily entailed, and the taxpayers, who protested against new taxes. Crispi allowed himself to be overreached by the Old Right and adopted the same program, at least in its chief features. The plan, however, was impracticable — a fact which its originators might have suspected but agreed to ignore. Here is a list of the expenditures of Italy during the financial year 1889–90, in millions of francs:

Unavoidable expenses (interest on the permanent and redeemable public debt, pensions, *etc.*)	700
Military expenses	422
All other expenses	515
Total	1,637

The last item of 515 millions was the only place where di Rudini's economies could be exercised. But even here there were expenses which it was impossible to reduce: expenses, for example, incidental to the collection of taxes; expenses for the maintenance of the police, *etc.* It could not be seriously hoped to introduce here economies sufficient to cover the large sums of which Italy stood in need. In di Rudini's program this difficulty was simply evaded. As premier, di Rudini was forced, in spite of his program, to contract new debts, and nevertheless he failed to reëstablish the equilibrium of the budget. Impelled by necessity, he thought of lessening the military expenses. It was then that he encountered the resistance of the court. An intrigue, cleverly conducted by an employee of the royal household, brought Sig. Giolitti into power and permitted him to dissolve the Chamber and control the ensuing elections. Minister Giolitti is maintaining the equilibrium of the budget by loans. He is openly borrowing thirty million francs a year for the construction of railways. He is also borrowing indirectly, through an

operation in annuities; and, probably, he will be obliged to borrow still more on other pretexts.

There is doubtless something to be said in favor of each of the three methods by which the balance of the budget can be maintained, *viz.*, loans, increase of taxation and diminution of military expenditures; but the politicians steadily avoid committing themselves to any one of these different methods, and the country is never called upon to make a choice between them.

Ministerial crises in Italy rarely lead to an entire change of the cabinet. It is generally a matter of reorganization; and the opposition of yesterday may become a part of the ministry it had previously opposed. A newspaper inspired by Sig. Nicotera (minister of the interior in di Rudini's cabinet) states that when Giolitti, for a long time a partisan of di Rudini, attacked him, the members of di Rudini's cabinet agreed not to take part in any ministry which Giolitti might form. Two members — the minister of war and the minister of marine — did not keep their word, and took office under the new ministry. Sig. Grimaldi was one of the warmest supporters of di Rudini's ministry; in fact it was understood that he was about to become a member of it. On the 5th of May he made a speech in the House which was most favorable to di Rudini. He said, speaking of Giolitti and his friends, that their change of attitude was "illogical," and that it did not seem right to him that those who had accompanied the ministry in its brightest days should abandon it when it seemed falling. He presented the order of the day in favor of the ministry, which was rejected. Consequently the ministry fell, and Giolitti took up the succession. But a short time elapsed before Grimaldi became minister of finance in the new cabinet.

A very interesting report has been published, giving the votes of the deputies during the last legislative period. From this report it appears that twenty-five deputies who, on the 31st of January, 1891, voted that they had confidence in Crispi's ministry, voted on the 21st of March in favor of a resolution declaring that the House had entire confidence in

his successor, di Rudini. There were only twenty-three members out of five hundred and eight who were constant in voting against Crispi's ministry and were afterwards constant in supporting that of di Rudini. This is a small number to constitute a real party. But what is more remarkable is to see how even the members of Crispi's cabinet voted when di Rudini had overturned the ministry to which they belonged. To translate their action into English values it must be imagined that the members of Lord Salisbury's cabinet, directly after having fallen from power, should vote, all but one, in favor of a Gladstonian ministry, and that their electors should think it perfectly natural for them to do this.

The political condition of Italy to-day is in some degree analogous to its social condition in the time of the *Compagnie di Ventura*. Then the cleverest or most fortunate leader drew round him the strongest bands; now the politician from whom the greatest advantages can be expected attracts the greatest number of deputies, who abandon him without scruple for any other leader who seems better able to serve their interests; and sometimes they abandon him from mere love of change. Matters have been at their worst, in this regard, since the ministry of Depretis. Cynical and corrupt, Depretis destroyed the last remaining vestiges of parties; and it was then that the name "Transformists" was coined to designate the politicians of the new era. Politically, the Italian Transformists correspond to the French Opportunists; and it is worthy of note that at nearly the same time when Opportunism appeared in France and Transformism in Italy, the old lines between Whigs and Tories began to disappear or to shift considerably in England. It would almost seem as if the same causes had been operative in the three countries — with different degrees of intensity, indeed, and with results varying by reason of differences in character and institutions.

Several leading Italian politicians have tried to modify this situation, but their efforts have completely miscarried. We must note, first of all, the attempts which have been made to promote the organization of parties through changes in the

electoral law. The law of December 17, 1860, was based upon a property qualification. The system was modified by the law of September 24, 1882, which considerably augmented the number of electors.[1] It was hoped, by interesting a larger number of persons in the political life of the country, to form large political parties. With the same end in view the *scrutin de liste*, or election by general ticket, was introduced; the kingdom being divided into electoral districts or "colleges," in each of which from three to five deputies were to be chosen. In the districts electing five deputies provision was made for minority representation through the system of the limited vote, each voter being allowed to write but four names on his ballot. This law was born under bad auspices. Its approval in the committee of the Senate was obtained by a bargain, as a result of which the state bought the Venetian railways. As far as the constitution of parties was concerned, the results were absolutely null. It was not unusual to see three candidates of nominally diverse parties unite and the electors would vote for this incongruous list without the least scruple. It was therefore resolved to return to the *scrutin uninominale*, or district ticket, which was reëstablished by the electoral laws of March 5, 1891, and June 18, 1892. The elections of November 6, 1892, were governed by these later laws, but the results were precisely the same as at the antecedent elections.

[1] The first general election took place January 27, 1861. The Kingdom of Italy did not then include Venice or Rome. The elections of October 22, 1865, were completed by the elections of November 25, 1866, in the province of Venice. Finally the elections of November 20, 1870, included the province of Rome. The following table shows the total number of qualified electors under the law of 1860, and the extent to which they participated in the elections:

	Entitled to Vote.	Actually Voting.	Percentage.
January 27, 1861	418,696	239,583	57.22
October 22, 1865	504,263	271,923	53.92
March 10, 1867	498,208	258,243	51.83
November 20, 1870	530,018	240,974	45.47
November 8, 1874	571,939	318,517	55.69
November 5, 1876	605,007	358,158	59.22
May 16, 1880	621,896	369,627	59.44

It has also been proposed to give greater authority to the Senate by changing the manner of selecting Senators.[1] The Marquis Alfieri, who represents the liberal traditions of Count Cavour, is one of the most active promoters of this reform; but for the moment it is impossible to foresee whether the proposal will be adopted, or what result it would produce.

Of late years a certain number of eminent men have tried to draw up programs which might serve to rally and consolidate parties. Sig. Cavallotti, the recognized leader of the extreme Left, who undoubtedly represents the highest aims and clearest ideas of this group, drew up such a program under the name of *Patto di Roma* (1890). It was complete and practical, and might well have served to solidify the Radical Party; and, in fact, the candidates claiming to belong to this party went before the country in 1890 with this program. But after the elections they soon ignored it, and left their leader alone with a few faithful adherents.

In 1889 an excellent platform for a Liberal-Conservative Party was drawn up by Senator Jacini, since deceased. Jacini had been minister several times, and had a profound knowledge of the political life of the country. In 1891 he still thought the circumstances favorable for the establishment of such a party, but indicated that he had little hope of its formation. In a pamphlet entitled *The Conservative Strength of New Italy* (Florence, 1891), he wrote:

> All the old parties have disappeared except the extreme Left (which up to the present time is not united), and no new parties have been formed. There are some groups, some partisans, some ministerials at any cost, no matter who may be in the government, but nothing more. This is certainly a condition of things favorable to the formation of a party such as we have spoken of. . . . But

[1] Senators are appointed by the king and for life. They must be over forty years of age, and are selected from among the ecclesiastical dignitaries and those who have held important political positions, appointive or elective. Eligible also are members of the Academy, five years after nomination, men of scientific eminence, and persons who for three years have paid three thousand francs a year in direct taxes. Besides these the princes of the royal family form a part of the Senate.

the character of the Conservatives is anything but energetic, and one must not ask of them what they have not the strength to give. Left to themselves, although the present circumstances favor them, they would not succeed in constituting a militant party. The difficulty is increased by the fact that no man capable of becoming their head is to be found in their ranks.

At the time of the last general elections Zanardelli, of the Old Left, made a speech in which he suggested a very logical basis for a division of parties. He thought that they should group themselves according to the greater or less extension which they were willing to give to the functions of government. But all such proposals have been treated as pure theory. Neither the politicians nor the electors have shown any interest in them. The politicians and their constituents have more direct, more practical and above all more personal ends in view. The electors ask the candidate what he will do for them ; and the deputy puts the same question to the ministry that solicits his support.

Sig. Bonghi, a leading man of letters, attributes his defeat at the last elections, not to his hostility to the Triple Alliance, as the semi-official papers explain it, but to the fact that he had not occupied himself enough with the petty private affairs of his constituents. A certain Piedmontese deputy is absolutely the factotum of his electors. There is no little service that he will not perform, even to looking after the commissions of his constituents' wives among Roman dressmakers and milliners. This member holds his seat in permanence ; nobody would dare dispute it. Other members get elected by paying liberally; but their position is always less secure than that of the deputies who can procure for their electors the favor of the government and of the financial companies that depend on the government. As for the opinions of a representative, these are generally regarded by his constituents as immaterial, so long as they do not interfere with his keeping in the good graces of each and every ministry. When they do interfere with this supreme duty, they are felt to be detrimental.

II.

There is perhaps no country, except England, where an important part of the economic interests of the citizens do not depend on the state; but the proportion which this part bears to the whole differs in various countries; and it is especially this proportion that we must keep in view when we wish to study the effects of the extension of governmental functions. In countries where protection prevails, the protected merchants, and those who aspire to be protected, evidently depend on the state. They can have only one aim — to take possession of the government, or to sell their support to the political party ready to pay for it by the utmost possible protection. Agricultural protection especially has the effect of depriving of their independence the class of great landed proprietors, who would otherwise be in a position to conduct themselves with entire freedom in political questions.

Some states, besides protecting through customs duties, pursue a policy of a financial protection which puts most of the enterprises of the country in their power, mainly through the medium of chartered banks, or state banks of issue. Accessory protection must also be considered; such as steamship subsidies, the monopolies accorded to private individuals, the privileges of the *credit foncier, etc.* All these forms of governmental interference are found united in Italy; and if they do not produce greater evils than those actually existing, it must be ascribed to a happy moderation in the Italian character which prevents the government from taking as much advantage of its power as it might or as much as other governments do. On studying this question more deeply, it is impossible not to be struck with the absolute economic dependence of the citizens on the state. In England, manufacturers, agriculturists and merchants hope to make their fortunes by their own labor and not through the favors of the state. France, even, which is one of the countries that in this respect resemble Italy, has several branches of national production which are satisfied with asking the state not to

injure them. The large wine producers, the silk manufacturers and dyers of Lyons, the manufacturers of *articles de Paris, etc.*, expect nothing from the state except that it should not prevent them from selling their products abroad, by provoking retaliation through absurd customs duties. But in Italy the proportion of independent producers is far smaller. There are many silk weavers and wine producers, but that is all. The other producers either enjoy or seek state protection.

In Italy, as in France, the railway companies are closely dependent on the state. In Italy the railways have reverted to the state, which has leased them to private companies. These leases are marked by a great defect. A fixed share — twenty-seven and one-half per cent[1] — of the net profits is taken by the state. Thus the railways are prevented from pursuing the method of all modern industries, *i. e.*, to produce largely and to be content with small profits. The government is not inclined to make reductions in the tariffs possible by reducing its percentage of the earnings, because it instinctively feels that these reductions would not always be made in order to develop traffic, but that they would soon be dependent on political influence, with a great resultant loss to the government revenues. But what is more serious from our present point of view is, that the railway companies derive very little profit from the working of the old lines. Their principal earnings come from the new lines which their contracts with the government have allowed them to construct. This puts them in strict dependence on the government, which they are obliged to propitiate in order to be able to make contracts that will be advantageous in the future.

The Bank of France is closely connected with the government, but it is never seen using its influence to aid enterprises protected by the government. Of the corresponding institutions in Italy the same cannot be said. For example, in the monthly balance sheet of the banks of issue published by the

[1] This is the proportion paid by the chief lines. There is besides a set of lines called secondary, where the companies receive only half of the gross profit, but receive besides a fixed subsidy of 3,000 francs per kilometre.

government there may be read a note explaining the surplus circulation of the *Banca Nazionale*. The balance sheet of March 31st contains the following: "Assets, 64,793,125 francs: represented by 11,043,125 in notes of the Bank of Rome; 3,750,000 subsidy to the province of Cagliari; 50,000,000 extraordinary issue to the banks of Turin." Each of these items calls for some words of explanation. Why did the *Banca Nazionale* keep in its coffers the notes of the Bank of Rome, instead of paying them out as change? As has now been abundantly proved, the government knew from the report of the inspectors, presented in 1889 by Senator Alvisi, that the Bank of Rome had a secret circulation of twenty-five millions. It was to aid in preventing the discovery of this fact that the *Banca Nazionale* was required to retain the notes of the Bank of Rome. As for the subsidy to the province of Cagliari, that was given when the savings bank of this province, whose director was a member of the majority, became bankrupt. The director was tried and convicted by the court of assizes of Genoa. In the course of his trial he said: "I am convicted simply because fortune has not favored me. Many other banks do what mine has done, only success up to the present saves them." Recent revelations with regard to the Bank of Rome show that these words were prophetic. The subsidy to the banks of Turin was given chiefly to the Tiberina Bank to prevent it from failing. It was on this occasion that the government permitted the banks to refuse redemption of their notes, and this was the origin of the present financial crisis in Italy.

These are facts which cannot be denied. It may be objected that up to the present time proofs are wanting that the banks of issue provided the government with funds for election expenses. It is certain that the government spends for the elections much more than its secret service fund can place at its disposal, but this does not prove that the banks provide the rest. Other enterprises dependent on the government may also render assistance. Companies which receive, or hope to receive, subsidies, privileges, monopolies, make good use of their funds in sustaining a government which promises them favors. There

are reports that in the last elections the gratitude of certain persons who were made Senators was manifested in offers of funds to the government for election purposes. But here, too, proofs are wanting. It is probably from fear of eliciting too much information on the means employed by the government and its allies in obtaining money that the proposed parliamentary inquiry into the Bank of Rome has been stifled.

Many enterprises are supported only by continual renewals of their bills, discounted by the banks of issue; and naturally the discount is most freely granted to those which enjoy the favor of the government. It should be noted that the legal tender quality of the bank notes is granted only for a very short time, generally six months or a year. This has kept the banks in strict dependence on the government and the legislative power. To secure their good will the banks have been obliged to have what is called a political portfolio. This name is given to bills discounted to legislators or influential journalists, which are renewed indefinitely.

As to the sort of protection which I have called accessory, one example will suffice. On the 21st of last February Deputy Colajanni, speaking upon the subsidies to be granted to the General Navigation Company, said:

> The honorable Sig. Bettolo has enumerated the causes why the dividend of the General Navigation Company amounted to only five per cent, while other private companies paid twice and even three times as much. He said that the General Navigation Company spent more for coal, and also that their general expenditure was greater. . . . While other companies pay twenty francs a ton for their coal, the General Navigation pays thirty francs. . . . Why does the General Navigation spend so much in coal, when it might spend some millions less? It seems that the contractors and brokers of the company are most fortunate people.

Sig. Colajanni then proceeded to point out similar abuses in the repairs of the steamers belonging to the company.

These details illustrate the very wide diffusion of gains resulting from the protection granted by the state. Those who nominally enjoy the profit are obliged to share it with a great

number of auxiliaries. An immense governmental patronage has been developed, like that which existed in the later period of the Roman Republic. Every enterprise enjoying governmental protection has a great number of hangers-on. These share the gains, and it is their duty to defend with all their might the privileges from which the gains are derived. As in ancient Rome, therefore, the political elections are largely controlled by those who are indirectly interested in government contracts.

If now we leave the economic field and consider the other fields of social activity, we still find the influence of the state preponderant. One domain alone is free from it — that of religion. The dissensions between the papacy and the monarchy have luckily put the clergy beyond the influence of the government. This is the real reason why the Italian politicians are so hostile to the papacy. Foreigners who attribute this hostilty to anti-religious feeling make a great mistake. It cannot be denied that such a sentiment exists among some adversaries of the papacy, but the great majority of the politicians have no strong feeling either for or against religion. They simply feel regret at not having the influence of the clergy on their side to consolidate their authority. Many very honorable men have a similar feeling, which seems to them purely patriotic; they wish to see the papacy use its influence in behalf of the Italian fatherland;[1] but they do not generally distinguish the

[1] On this subject there has appeared a very singular pamphlet by G. Toscanelli, entitled: Religion and Country attacked by the Pope. Should Italy Defend Herself? (Florence, 1890.) Signor Toscanelli, a member of Parliament, was a good Catholic. He was deputed by Signor Depretis to negotiate an arrangement with the pope. Depretis, a great purchaser of consciences, wished to have those of the Catholic priests in his service. (Sig. Crispi also, according to what Toscanelli tells us, was in treaty for an arrangement with the pope.) The pope, however, was not to be persuaded. The spirit in which Sig. Toscanelli writes is indicated by the following passages: "The present contemporary politics of the pope ought to be taught, analyzed and censured in the upper schools" (p. 104). "In order to wrestle with the policy of the pope, the state has three methods. One consists in not granting him the temporal power. This means is not at all efficacious. . . . Another is that of refusing to recognize any pope who is not proposed by the government, and punishing him if he exercises any acts of jurisdiction" (p. 110).

welfare of their country from the welfare of their own particular party. The laws which their Parliament makes give them full control of every one's body, and by means of the clergy they would like to reach the soul also. Many desire a concordat like that concluded by Napoleon I.

In default of the church there remain the schools. In America and England university professors are absolutely independent. In France they are beginning to be dependent upon the government; but a certain number of *savants* escape its control, thanks to a reputation which enables them to do without its favors. In Italy these exceptions are extremely rare: nearly all the higher instructors are completely dependent on the government. Even in the educational institutions which are supported by the provinces the teaching staff is not free from governmental interference. At Bari, for example, there is a higher commercial school which is a local institution. Its director, until recently, was Sig. Pantaleoni, a very distinguished economist, whose writings are as well-known abroad as in Italy. Sig. Pantaleoni had published a scientific study on the drawbacks on alcohol, in which he pointed out the inconveniences which the interference of the deputies had caused in this matter. This study, which appeared in the *Giornale degli Economisti*, passed unnoticed; but being quoted by a foreign magazine,[1] it aroused the attention and the resentment of the government. The president of the council of the school at Bari wrote to Sig. Pantaleoni complaining that he had set the government against them, "while he knew the school had need of its help." Sig. Pantaleoni was subjected to an inquiry, and a vote of censure was passed on him. To this he naturally refused to submit, and consequently lost his place. Sig. Bonghi has been subjected to a similar inquiry on account of two newspaper articles. Bonghi, it is true, is no longer a professor; he is a councilor of state; and this, though it cannot justify, may at least serve as a more plausible pretext for the proceedings against him. Let me hasten to add that such cases

[1] In an article by the present writer, in the *Revue des Deux Mondes*, October 15, 1891.

are rare. The government generally has no need to punish an independence which is quite exceptional; it only takes care to proportion its rewards to the zeal shown in serving it.

The influence of the government extends also to the courts of justice. In Italy, as in England and France, there are no absolutely independent courts, such as are found in the United States. But even where the courts are legally dependent upon the government (as in England, where they are the creatures of Parliament), complete judicial independence may in fact exist. In examining the condition of the Italian judiciary, we must rigidly reject all testimony which appears to be dictated by personal or party hostility. But unfavorable evidence proceeding from persons friendly to the existing régime, and above all, from the judges themselves, seems conclusive. An official journal has recently treated the question with unusual frankness. It begins by observing that for some time past public opinion has regarded the judiciary as less impartial than it ought to be, and it adds:

> The fault is to some extent general. It is in the parliamentary system, the deputies, the government, the press; in short, it lies with all those who have mined out of the rock of justice a vein of personal benefit. Once upon a time the judges were obliged to bow to one strong tyrant only; now they are subjected to the will of thousands, and in their own interest they must submit to the influence of great and small. Look at the struggle among the judges, from the prætorships[1] of the small provinces up to the ordinary tribunals and the courts of appeal. Study the psychology of their most legitimate ambitions; rebuild the history of their dreams, encouraged by the smiles of the syndics, protected by the prefects for the sake of their electoral influence, or lighted by the benevolent smiles of the legal deputies, from whose small golden medals at audiences shine promises of recommendation for promotion and change of place. Let us turn even to the highest step of the ladder and read the inmost thoughts of the magistrate who, either by tact or by open complaisance and obedience to the government, becomes a political leader instead of a chief dispenser of justice. They begin with compromise and finish by surrendering. The best,

[1] [The Italian *pretor* corresponds closely to the French *juge de paix*. — EDS.]

seeing that the most pliable are so often preferred to them, get disgusted and leave the profession. Thus the intellectual level of the judiciary tends to decline.

In Italy the government cannot remove a judge from office or degrade him, but it may assign him to another tribunal of equal or higher rank. The government rewards its friends by promotion and punishes its enemies by transferring them from courts situated in the principal towns to smaller and less desirable places. In France the judicial tenure is legally secure, both as to grade and as to residence. It has recently been proposed to change the rule as to residence and empower the government to transfer the judges. It was frankly admitted by the Opportunist press that this proposal was made with a view of increasing the influence of the government over the judiciary. In Italy a minister of the Right, Sig. Vigliani, tried to take the judiciary out of politics by protecting it against the government. He caused a royal decree to be issued, October 3, 1873, establishing rules for the transfer of judges to new residences. But in less than five years (January 3, 1878) another decree was issued at the instance of a minister of the Left, abolishing these rules ; and since then the judges have been subject, in this matter, to the absolute power of the ministry. Attorney General La Francesca observes on this subject :

> The removal of a magistrate from one place to another injures him financially ; destroys his ties of friendship, his habits and his dignity ; disturbs and troubles the security of his mind, and undermines his liberty. The practical result of such things indicates why they are done. We have seen justice grow torpid under the influence of removals.[1]

These words are especially significant because of the official position held by the writer. Still more significant is an utterance of Sig. Eula, who holds one of the highest positions in the judiciary of the kingdom — that of president of the court of appeals at Turin. Sig. Eula said publicly to Sig.

[1] Del Pubblico Ministero nell' Ordine Giustiziario (Naples, 1880).

Zanardelli that he commended him for not having asked the judges to render him, while on the road to the ministry, those services that his predecessors had required.

Sig. Minghetti, whose optimistic view of Italian politics has already been referred to, laid great stress on the growing dependence of the judiciary. He wrote :

> It would be difficult to furnish proofs of the interference of the deputies in the nomination of judges, but it is one of those notorious things of which the public conscience is a witness. Some facts, however, we can cite, which show that this thing is not regarded as forbidden or irregular. A deputy, with real but unusual candor, defended himself against the troublesome attacks of a newspaper that accused him of begging the ministry to exile the judges of his province from the tribunal, by answering : "How could they make such an unaccountable charge ? To contradict it, it is enough to say that the tribunal is such as it is thanks to me. Many of the judges who compose it were especially suggested by me to the ministry."[1]

Sig. Minghetti also quotes an appeal sent to the ministry of justice, bearing the signatures of several deputies, asking him to select a protégé of theirs for the place of attorney general. He adds :

> In the investigation of crimes and the search for their authors, judges have often paused and drawn back when they found before them powerful criminals and accomplices. The first to be corrupted by the local influence has been the government ; not for money, it is true, but for votes. . . . Hence, old and worthy men express the fear, and some venture the assertion, that under the Italian governments from 1815 to 1860 justice was better administered and the judges as a class were more respectable than is the case to-day. I do not agree with this opinion. However, if one wishes to be impartial he must acknowledge that, where there was no question of politics, the courts of that period generally sentenced with sufficient authority.

A politician on the other side of the House, Sig. Boccarini, who was one of the leaders of the Left, in a speech delivered May 16, 1886, alluded to "the discredit into which the courts

[1] Minghetti, Political Parties and their Interference with Justice and Administration (1881).

have fallen." On the 26th of May, Sig. Cavallotti cited a letter in which Sig. Baggiarini, Attorney General in the Court of Appeals, tendered his resignation, and in which he stated as his reason for resigning that he was not willing to render the government services which were against his conscience.[1]

The trial of Strigelli at Turin in 1884 was a case in which serious pressure was shown to have been exercised by the government. Strigelli, who was accused of having forged bank-notes, was under the protection of the prefect of Turin; and this prefect, who was an excellent electoral agent of Depretis' ministry, obtained from the government almost anything that he wished. Sig. Noce, who had been attorney general of the court of appeals at Turin, gave evidence in court that his substitute, Sig. Torti, had been persecuted by the government because he had had the courage to prosecute agents of the police. A letter written by the prefect was produced in court, the purpose of which was to prevent the case against Strigelli from being pushed through.[2] Strigelli was sentenced to penal servitude.

I might cite other cases, but these seem sufficient. I will only add the evidence of a judge of high position, Sig. Carlo Lozzi, President of the Court of Appeals. In a pamphlet

[1] Here is part of the letter: "I hoped to die in this career to which I was bound by ties of love, habit and study. I was obliged to abandon it when I was expected to give what the dignity of my robe and the conscience of a magistrate forbade my giving."

[2] The letter of the prefect (Casalis), which was read in court on the 25th of January, contained the following sentence: "It is useless for me to point out how seriously I desire that Strigelli should not have the smallest annoyance." Sig. Noce deposed: "The officials charged with the prosecution insisted that we should proceed, it not being possible to construct a case without implicating Strigelli. Then I went to Rome and explained the situation to the keeper of the seals. I said that the prefect, although he had no guarantees in his favor, had a great interest in that man." This time Sig. Noce accomplished nothing. But he adds: "I returned a second time to Rome, and Sig. Zanardelli . . . told me to go ahead." We must bear in mind that the question was one of forgery, and that the prefect knew the judicial antecedents of the accused man, which were absolutely deplorable. Strigelli, taking advantage of the protection of the prefect, was afterwards an accomplice in the robbery of a goldsmith named Lacarini, and had some innocent people condemned as guilty. When all was discovered, the police offered 2,500 francs to Lacarini if he would withdraw the accusation.

which was published at Bologna in 1883,[1] he observes that judges are not as independent as they ought to be, and alludes to the undue influence exercised by deputies who are members of the bar.[2] He speaks of

> scandalous promotions, which are attributed by public opinion to political protectors; and removals which are said to have been obtained by legal deputies because they would have lost or feared to lose a case by the decision of a particular judge, so that it was needful to send him away at any cost. Let the first president, Senator Paoli, tell what happened among the persons employed in the court of appeals in Florence, without his knowledge, and one may almost say, in spite of him.

The men who govern the country have almost unlimited power to protect and enrich their friends and to ruin their enemies[3] — *parcere subjectis et debellare superbos* — but they do not often take full advantage of their authority. Apart from some exceptional cases (as when the Left came into power in 1876), the men who alternately hold and lose authority respect each others' friends and partisans. This is a consequence of that moderation which is a distinct feature in the Italian character. It is also a policy dictated by intelligent self-interest. The minister of to-day spares the partisans of his predecessor that his own partisans may afterwards be spared by

[1] Carlo Lozzi, the Magistracy before the new Parliament. Observations à propos.

[2] In the *Corriere di Napoli* of March 13, 1893, the following correspondence from Palermo appeared: "To-day a civil suit was to be argued before the court of appeals, in which Crispi was defending one of the parties . . . Some of Crispi's friends made a demonstration in his favor — a demonstration so energetic that the lawyer for the opposite side had to suspend his address because of the cry: 'Let Crispi speak.' The president of the court of justice had not the courage to clear the hall; he bowed to Crispi's power and the suit was brought to a conclusion *without further argument!*"

[3] When it is desirable to get rid of common people who displease the authorities, they are usually condemned for resistance to the officers of the police. It is easy for the latter to provoke this crime, and in case of necessity they falsify facts. It is particularly of late years that this device has been employed. The number of offences of this sort reported to the courts in 1880 was 110; 1881, 7,904; 1882, 8,033; 1883, 8,763; 1884, 9,560; 1885, 661; 1886, 10,152; 1887, 10,669; 1888, 10,669; 1889, 10,204; 1890, 11,437.

his successor. But any attempt at organized opposition, not against this or that particular ministry but against the present system of government, would be promptly and unsparingly crushed. To wish for a part of the favors dispensed by the state is deemed a legitimate ambition, which may be combated but cannot reasonably be punished; but to wish to arrest the flow of its favors altogether, is considered an act of rebellion which deserves chastisement. In this matter even indifference is culpable. There is no place in Italy for a citizen who, to preserve his independence, refuses to be a party to political patronage. He finds himself in about the same position as a Hindoo who has no caste. He is an outlaw, a man whom everyone can attack. If a lawyer, he has no clients; if an engineer, nobody employs him; if a merchant or tradesman, he is ruined; if a land owner he is exposed to petty annoyances from prefects and syndics. Every door is closed to him, everyone repulses him, until the day comes when the government does him the honor to think him dangerous, and then it finds some way to have him condemned by a court of justice for an imaginary crime.

The government justifies all this by saying that these people are generally factious. There is some truth in the statement. In countries where legal resistance is impossible, popular discontent tends to faction and ends in sedition. Of all the numerous changes of ministry in Italy, none has been due to a spontaneous expression of public opinion. A movement like that of the Cobden Club in England for free trade, or like that which forced the Reform Bill through Parliament, is absolutely impossible in Italy. The government has at its call friends powerful enough to crush any movement of this sort as soon as it seems to acquire any importance. There was never a more unpopular tax in Italy than the grist tax (*macinato*). The popular discontent aroused by this tax offered a unique occasion for a great political league, such as are formed in the United States and in England. Such a movement was at first attempted; but the government dissolved the society that had originated it and the movement was at

once arrested. Some years after, when the people had grown accustomed to the tax and had ceased to protest, the government spontaneously abolished it. The people, never having seen such movements come to anything, look upon them as absolutely vain and fruitless, and are not disposed to occupy themselves about them. Men who, when their hardships have become absolutely insupportable, permit themselves to be implicated in movements of a seditious character, will refuse to join a society that aims at the legal abolition of their grievances. They are sure that such a course would expose them uselessly to the vengeance of those who hold the reins of power and of their political dependents.

In the eyes not only of the people but of a great part of the bourgeoisie, politics are a luxury which only the man who has a following, who has *clients* in the old Latin sense of the term, can permit himself. A father may often be heard to praise his son by saying: "He has no vices, does not keep evil company, and does not occupy himself with politics." This feeling explains a singular phenomenon, observable from time to time — the unanimous abstention of all the electors in a particular locality by way of protest against the government. A law passed not long ago removed the justices of the peace (*pretor*) in a number of small places. The electors of some of these places now abstain from voting at all elections. Considering that their rights have been ignored, they revenge themselves by sulking at their masters, not by attempting to select new ones. I once reproached a workman, who was a very honest man, for having taken ten francs to vote in favor of a deputy. I represented to him that if he joined with his companions they could elect some one who would undertake to get the heavy taxes lessened. He answered: "All that is useless; the heads will always do what they desire. The only good we can get is some bank notes at election time."

Election expenses, however, are not very large. As far as can be judged from rather incomplete information, thirty thousand francs seems to be the average for candidates who

have local support as well as that of the government. If this support is wanting, the expense is naturally much greater. The example given formerly by England shows that purchases of elections are not incompatible with the good working of the parliamentary régime. The deputy who has bought his seat is sometimes fairly independent of the government and of electoral coteries. A person worthy of credence told me an anecdote that illustrates this point. Some friends were endeavoring to make a deputy change his opinions. They told him that his electors would not be content if he did not follow the government in all its evolutions. The deputy argued with them for a time, and then, losing patience, said: "Let them leave me in peace. I have paid them and we are quits, and I mean to vote according to my conscience." But such cases as this are exceptional. Generally the candidates regard this outlay as an investment,[1] and they wish to see their capital returned with a good profit.

Laws, of course, exist against electoral corruption, but they are never put in force. A justice of the peace and a public prosecutor in Venice, who were foolish enough to take the provisions of these laws seriously, were removed by di Rudini's ministry, and the suit was dropped. On this occasion the newspapers openly said that it was ridiculous to attempt to punish the buying of votes, which had become a general and ordinary custom.

The support of the government, however, is more effective

[1] *Il Corriere di Napoli* asserts that the last elections have brought quantities of the notes of the Bank of Rome into circulation in Tuscany, where before they were hardly known. I cannot vouch for the truth of this statement. But another assertion has been made which is supported by strong circumstantial evidence. It is said that during the last elections several candidates gave their electors halves of bank-notes for five or ten francs, promising to furnish the other halves if they were elected. It is certain that shortly after the elections the quantity of bank-notes in circulation, composed of *odd* halves stuck together, was so great that the financial agents of the government were obliged to apply to the Treasury for a ruling on the matter. It seems that the electors whose candidates were not successful, were obliged to stick together the odd halves which they had received; and it seems that even those whose candidates were elected, and who received the second half of the notes of which they already held the first half, made frequent mistakes in matching their half notes.

than money; and the most effective form of governmental interference is, of course, the appointing and removing of officials. On the 2nd of July, 1886, Sig. Nicotera, who has twice been minister of the interior, said in the Chamber that he was ready to furnish a long list of government clerks in the province of Avellino who had been recalled or had lost their employments for electoral reasons, and he added in characteristic words: "Certain things may be done, but they must be done well. The ministry has done them, and done them badly."

Sig. Cavallotti, speaking in the Chamber on the 30th of June, 1886, said:

> In the college of Pesaro at Cagli (of this I have documentary evidence) the communal messenger distributed, together with the electoral poll tickets, the governmental list of candidates, and added a franc for each name. . . . At Arezzo rates were a little higher. The general tariff for ministerial votes, as is shown by trustworthy testimony, was a franc fifty centimes.

Depretis (Minister of the Interior) interjected: "No, it was a franc at Arezzo too." Cavallotti answered:

> Excuse me, that is an error; exactly a franc fifty was the average price; I have written testimony of this deposited at a notary's office. At Modena, six francs; at Alatri, a college in the Roman district, eight, ten and even one hundred francs. . . . The asylum of Tutra [an asylum for the poor] receives a subsidy of 400 francs through the kindness of the candidate N. . . . In the third election district of Novara a paper was distributed on which was written: "If you vote for these four candidates, there will be 10,000 francs for the asylum." In the third election district at Milan a printed paper was distributed which read: "Choice is easy. . . . We have four tried men of honor, who have procured for us the railway stations, the telegraph and post-offices, and who a few days ago obtained for us the following subsidies: 500 francs for the Infant Asylum, 500 for the School of Design, 1500 for the Charity Assembly" . . . At Foligno the ministerial candidate obtained for the corporation a loan of 450,000 francs from the government. . . . In the second Roman election district a certain Ferri, originally from Vallinfreda, where he exercised considerable influence, had

been condemned (for wounding the syndic) to eighteen months' imprisonment. He was suffering the punishment of his crime when it was found that his presence in the electoral struggle would be useful. Application was made to the ministerial candidate, and three or four days before the elections he was pardoned, and returned to the electoral community just in time to pay his debt of gratitude.

Sig. Cavallotti's party is the Left. Sig. di Rudini, who belongs to the Right and who has recently been president of the council, said on the 16th of May, 1886:

It is necessary to check the degeneration of the parliamentary system. The public administration, the assemblies, the schools, seem to have become parts of a great machine for getting votes.[1]

It is said that the evil is increasing. This is true if we go back to the earlier days of the parliamentary régime in Italy and compare the condition obtaining then with the condition obtaining now; but things seem to be scarcely worse at present than under the Depretis ministry.

It is evident enough that the various facts that we have examined stand in close connection, each with the rest; but it is not easy to say whether the political disorganization of Italy is

[1] Sig. Minghetti, speaking of the degeneration of the parliamentary régime in Italy, said: "When a deputy no longer represents principles, is no longer moved by national sentiments; when he is the patron, the solicitor, the agent of those who send him, there exists every sign of corruption . . . On the other hand, a ministry that is not able to bring together a majority representing some idea, is obliged to fill its place by securing the support of single deputies, who receive from it honors, favors and power." (*Op. cit.* p. 8.)

Sig. Giolitti, who is now president of the council, made certain remarks in a speech delivered February 24, 1886, which he appears since to have entirely forgotten: "And we go on creating university professors who have no pupils to hear them, employments where there is no real work to be done, and all this in order to find places for persons who belong in society to the large class of the idle and needy. Henceforward I think we shall be able to apply to our budget the definition that Bastiat proposed for the state, namely, a great fiction in which every one tries to live at the expense of others."

Senator Jacini observes that for many politicians our parliamentary régime "with all its rottenness, indeed because of its flaws, constitutes a real canonry, in which without intellectual effort or culture, but with a little rhetoric and a few conventional phrases, a little intrigue and a few dependents amongst journalists, any one can succeed in having great influence."— Pensieri sulla Politica Italiana (Florence, 1889), p. 40.

the cause or the result of the existing corruption. Strongly organized political parties would exercise a certain control over the coteries that are formed to divide the spoils wrung from the taxpayers; but it is precisely these coteries that impede the formation of real parties. Neither religious feeling nor aristocratic pride, two of the strongest sentiments which influence human action, have been able to prevent Italians of the highest class from asking for places, enrolling themselves among those dependent on the government and taking service under politicians whom they thoroughly despise. The absence of political parties favors the extension of the functions of government, because to obtain a majority the ministers are obliged to substitute motives of personal interest for motives of political interest or passions which do not exist. But the extension of governmental functions is, in its turn, a serious obstacle to the formation of parties. As a royalist French paper, now allied to the republic, has said: "The people must end by understanding that it is not by resisting the government that they will obtain its favors."

I am inclined to think that the want of political parties and the extension of governmental activity are the consequences of more general causes. Some of these causes are peculiar to the countries of the Latin race, and some to Italy;[1] others are in operation in almost all civilized states. To disentangle these causes and discover the modes in which they act would be a very interesting task, but it is one that cannot be attempted in this essay.

III.

For several years Italy's foreign policy has been uniform; it has adhered to the alliance with Germany and Austria. The prime reason of this is the court's fear that the republican form of government may pass from France into Italy, and its belief that the alliance with the German Empire is favorable

[1] Sig. Turiello, of Naples, has published a very remarkable study on the peculiarities of the Italian character and their influence on the political life of the country. It would be well, however, to give more consideration than he does to the economic side of the question.

to the permanence of the dynasty in Italy. To become a minister you must accept the Triple Alliance. This is the reason that the Radicals who now aspire to power have been obliged to retract, to sing the praises of the Triple Alliance and declare themselves its partisans.

But it is not only the sympathy of the court that maintains the German alliance; it is also the feeling of a part of the Italian bourgeoisie and the interest of the political coteries. The greatest obstacle to the establishment of the protective system in Italy was the treaty of commerce with France. All who expected any advantage from higher duties were impelled to favor an economic rupture with France; and with this aim they turned to Germany. Again, the great contractors for the ministries of war and marine, among others the powerful steel-works company of Terni, found it to their interest to spread through the country the fear of war with France, in order that the military and naval expenditures might be increased.

But in addition to those who expected a direct profit from the breach with France, the minds of a part of the bourgeoisie were haunted by sentiments which Senator Jacini has admirably described as "megalomania." The Italian revolution was rather the work of the bourgeoisie than of the people. Many of those who had helped to establish the new régime profited by it and became much richer. They became rich enough to think they could afford themselves luxuries; and, unhappily, the taste of the Italian middle class turned to one of the most expensive luxuries — that of glory and military conquests.[1] It

[1] Sig. de Molinari has put the facts excellently. Speaking of the Italian bourgeoisie, he says: "The Italian middle class is more numerous and necessitous than the class formerly predominant, and it needed a larger opening to satisfy its craving for dominion and enjoyment — a craving which had been sharpened by a long fast. Like all *parvenus*, its members wished besides to make an ostentatious display of their recently acquired power and fortune. . . . They threw themselves into a path of ostentatious and expensive policy, which flattered their vanity and at the same time widened their opportunities. The army and navy were not put on a footing suitable to a great power without offering to the offspring of the governing class additional aristocratic employments, which raised them to the level of the sons of the aristocracy and, at the same time, gave them secure incomes."— G. de Molinari, Les Lois Naturelles de l'Économie Politique (Paris, 1887), p. 169.

was partly to satisfy this desire that Depretis sent troops to Massowah. But this toy was not sufficient for the Italian middle class, who dreamt of great military enterprises. The governments that succeeded each other in France erred in not taking this sentiment into account; and they gave particular offense by the Tunis expedition. France might perfectly well have taken possession of Tunis without quarreling with Italy, provided it had considered and sought to conciliate the *amour propre* of the governing class of Italians. But, on the contrary, the French government seemed bent on humiliating the Italians. The German government did not commit this error. Prince Bismarck was too profound a connoisseur of human passions not to see how he could turn to account, in the interest of his country, the sentiment of the Italian governing class. By gratifying its vanity, a thing that cost him nothing, he bought the alliance of Italy and incited this country to an expenditure quite out of proportion to its straightened means.

This expenditure has been defended as necessary to maintain the independence of the country. Such is the official theory, and many persons believe it to be true. But in reality the independence of Italy is not threatened by France; and if by any chance the latter country should conceive the idea of conquering Italy, the other European powers would certainly intervene, whether formal alliances demanded such action or not. This even the most determined partisans of the Triple Alliance are often obliged to confess.[1]

[1] Sig. Chiala, writing of Crispi's visit to Berlin in 1876 to offer the Italian alliance, says: "Who, until then, had ever doubted that Germany would have considered it to her interest to help Italy if she were attacked by France, even without a treaty? Had not the German chancellor declared this without circumlocution to Count von Arnim in his letter of January 18, 1874, which had been made public?"— Chiala, Pagine di Storia Contemporanea, pp. 279, 280.

Senator Jacini, who is far from feeling the same enthusiasm for the Triple Alliance as Sig. Chiala, observes: "Germany was the one of the allies that had the strongest reason to be satisfied. Let us allow that there is precise equality among the three allies as to the obligation of mutual defence. But, coming to concrete facts, are all three on an equal footing in respect to their territorial claims? Certainly not. Who will dispute the integrity of the Italian territory if we do not quarrel with our neighbors? Austria is in a less perfect position,

In 1875 Italy spent only 216 millions a year for her army and navy. These expenses went on increasing until, in 1888–89, they reached 554 millions. Since then they have decreased to 359 millions (1891–92). But this diminution has been obtained by expedients which cannot be persistently employed. Soldiers under arms have been discharged before their time has expired, and companies have been reduced to an absurdly insufficient effective force. The provisions of the military magazines, including even those on the frontiers, have been used up.[1] Military authorities say, with reason, that if Italy wishes to pursue a policy which may involve a war with France, its armament must be equal to this contingency, and to obtain this result much more must be spent than at present. But how the nation will meet increased expenditures is a problem still unsolved. Up to the present time the government has attempted to balance the budget by increasing the taxes and continually making new debts. But can such a course be pursued indefinitely? The possibilities of taxation, both as to objects and rates, seem nearly exhausted. There are many indications that an augmentation of imposts would not produce a sensible increase of revenue.[2] As to the public debt, the examples of Greece, Portugal, Spain and the

because of the different races that live within her confines. But Germany has in view, not a vague contingency, but the certainty of a struggle to defend the conquest it has made of Alsace and Lorraine." — Jacini, Pensieri sulla Politica Italiana, pp. 107, 108.

[1] It is characteristic of the Italian political régime that it tends always to sacrifice reality to appearances. The government wishes to have an army which is strong, at least on paper. It therefore keeps up the framework while it reduces the effective force to a limit that compromises the instruction and solidity of the army.

[2] Sig. Mazzola has shown, in the *Giornale degli Economisti*, that of late years the consumption of wheat has diminished in Italy. In the *Journal des Économistes*, March, 1892, I have given an estimate which indicates that the consumption of wool, which in 1886 was 68 kilos for every 100 inhabitants, was reduced in 1889–90 to 60 kilos.

The following table shows the quantity of coffee imported into Italy in quintals (100 kilos):

1887.	1888.	1889.	1890.	1891.
142,650	140,267	135,484	139,824	138,166

The reduction in consumption is evident; and diminishing consumption generally indicates an impoverishment of the country.

Argentine Republic show that Italy is still far from the limit at which a country no longer finds loans ; but she is very near the point where a future financial catastrophe is inevitable. After the abolition of the forced currency in 1880 and the loan of 644 millions of francs which was contracted for this purpose, the great book of the national debt was closed. But this only means that Italy has no longer borrowed under the form of five per cent consols. It has continued to borrow more than ever in other ways. Civil and military pensions have once already served to conceal a loan (by the sale of annuities); and now it is planned to make them serve the same purpose a second time ; and there seems to be no reason why these methods should not be continued indefinitely. These crooked courses are among the consequences of the parliamentary régime in its Italian form. Chamber and ministers are not far-sighted. They are contented to live from day to day without thinking of the future. The policy of di Rudini's cabinet, which was rather more open than that of its predecessors, brought the country to a point where it was necessary either to submit to new taxes or to reduce the army expenses. Di Rudini and his friends, as we have seen, tried to avoid the difficulty by proposing economy in all expenses except those of the army ; but this policy proved impracticable. At the present moment the government is struggling with the same difficulty, and Sig. Giolitti is trying to escape from the dilemma by contracting new debts. It is probable that this policy of expedients will be continued as long as possible, since everybody seems satisfied with it.

A few tables will best show the financial conditions in recent years. All numbers represent millions of francs.

Fluctuations of the National Debt.

	Funded Debt.	Floating Debt.	Total.
1882	11,029	220	11,249
1889–90	12,442	352	12,794
1890–91	12,634	442	13,076
1891–92	12,768	458	13,226

Expenditure on account of National Debt.

	Permanent.	Redeemable.	Floating	Annuities.	Total.
1882 . . .	401	70	47	64	581
1889–90 . .	438	107	85	68	698
1890–91 . .	442	106	87	69	704
1891–92 . .	449	105	92	71	717

Communal and Provincial Debts.

	Communal.	Provincial.	Total.
1882	764	137	901
1889	1,037	170	1,207

Mortgage Debts.

	Bearing Interest.	Without Interest.
1871	6,009	4,583
1881	6,805	5,005
1891	9,466	6,152

State Revenue, showing increase of Taxation.

	1882.	1891–1892.
State property (including the railways) . . .	77	85
Tax on houses and land	189	191
Tax on affairs (successions, mortgages, *etc.*). .	169	220
Income tax	193	234
Customs duties, local octrois (salt, tobacco). .	492	577
Lottery[1]	73	74
Post and telegraph[1]	44	62
Various taxes (including tax on annuities) . .	55	71
Total regular income.	1,292	1,514

Provincial and Communal Revenue, in Totals.

	Communes.	Provinces.	Total.
1871	292	75	367
1882	391	107	498
1889	523	103	626

Provincial and Communal Revenue, Classified.

	1871.	1882.	1889.
Taxes on consumption, and similar taxes .	100	149	199
Tax on land and buildings	127	191	202
Income from the state domain	36	44	47
Loans, sales of public lands, *etc.*	104	114	178
Total	367	498	626

[1] The cost of the lottery, in 1891–92, was forty-seven millions; that of the postal and telegraph service was fifty millions.

These figures are a little dry, but they are indispensable if one wants to form an idea of the state of the country. The study of political science has been too long a branch of literature; it is time that it should take as its pattern positive and inductive science and adopt the same methods of reasoning.

Let us try to form an idea of the increase of the burden borne by the country, by examining the taxes on consumption; and for this purpose let us add together the taxes of this sort collected by the state, the communes and the provinces (these last are insignificant). We shall find the totals (in millions of francs) to be: for 1871, 437; for 1882, 641; for 1889, 806.[1] This enormous increase shows us that taxes on consumption have furnished the point of least resistance in augmenting the revenues. At the same time careful investigations show that the wealth of Italy has only very slightly increased from 1882 to 1889. In some cases (*e. g.*, corn and wool) consumption has decreased, so that it cannot be said that the increase of the proceeds of the taxes on consumption is due to the prosperity of the country; and we must conclude on the contrary that in a great measure, at least, the condition of the people has grown worse.

The straitened circumstances of the country partly account for the increase of emigration,[2] which is one of the most serious results of the régime described in the preceding pages. It is to be anticipated that the situation will grow worse and worse. The point of least resistance to taxation continues to be found

[1] The budgets of the communes and of the provinces are made up by calendar years (January 1 to December 31). The same was true of the national budget until 1884, but since that year it has been computed from July 1 to June 30. In order to obtain the total for 1889 I have accordingly taken the averages of the years 1888–89 and 1889–90.

[2] Emigration is divided into temporary and permanent, but the distinction of the two classes in the official statistics is very inaccurate. In order to avoid trouble with the authorities, many emigrants say they are going temporarily abroad to look for work, and then never return.

	1878.	1880.	1882.	1886.	1888.	1890.	1891.
Permanent . .	18,535	37,934	65,748	85,355	195,993	104,733	175,520
Temporary . .	77,733	81,967	95,814	82,474	94,743	112,511	118,111
Total . .	96,268	119,901	161,562	167,829	290,736	217,244	293,631

in the taxes on consumption, which are rendered heavier by protective duties. The landed proprietors are powerful enough to resist any increase of taxation upon their property; they have even been able to get the land-tax reduced two-tenths — and this at the very time when the expenses of the state were increasing in an extraordinary degree and the taxes on consumption were being increased in consequence.[1] The proprietors of houses have consented to a slight increase in the taxation of their property — with the less reluctance because this increase is really paid by their tenants in the form of increased rents. Moreover, the rent of houses as stated by the owners is generally much lower than the real rent, and the public authorities connive at such undervaluations. Similar abuses exist with regard to the income tax. A few years ago the government published a list of the persons paying the heaviest income taxes; and some of the returns are absolutely scandalous. Some deputies of the legal profession, who, judging from the style in which they live, certainly cannot spend less than sixty thousand francs a year, are put down as having incomes of twelve thousand francs or less. Those who belong to the political coteries of whom we have spoken, also enjoy a large degree of immunity from this tax, which accordingly falls back upon the plain people and on those who enjoy no power and no patronage. In the future, perhaps, under the pressure of constantly increasing financial necessity, the people of importance in the governing class may also be forced to pay. This would probably bring about a change in the policy of the country. Up to the present time the governing class has not opposed the increase of the national expenditures, because they have the means of enriching themselves and at the same time satisfying their vanity. If they had to pay for this indulgence, they would be inclined to renounce it. This contingency, however, seems far off. The example of Spain and Portugal shows that a Latin country may approach the verge of ruin

	1871.	1884–85.	1886–87.	1887–88.	1891–92.
[1] Land-tax (in millions) . . .	128	125	116	106	107
House-tax do. . . .	51	65	67	68	84

before the governing class renounces the policy which has brought it there. I think it much more probable that, if a change in Italian policy takes place, it will be partly the result of an analogous change in France.

It is not a mere chance coincidence that the malversations of the Bank of Rome in Italy find their counterpart in the malversations of the Panama Canal ring in France. In both countries we have here similar effects due to similar causes. Opportunism in France and Transformism in Italy have their sole *raison d'être* in the benefits they confer on their adherents; and in the long run this system of making use of the resources of the country must lead to scandals. The first impulse is to blame individuals, but it is the political system which is really responsible. Crispi has declared, in an interview, that Tanlongo, the director of the Bank of Rome, had no perception of having done wrong. This is quite credible. In the long run, every sentiment of uprightness and honesty is deadened by living in an atmosphere which is morally corrupt. To see every one do wrong makes many people believe that wrong-doing is perfectly allowable. In France, as in Italy, the scandalous things that were being done with impunity were known to the government long before the public was aware of them. Among the ministers of both countries were men whose private integrity stood above all suspicion. Yet it never occurred to them that the first and foremost reason for which a government exists is to prevent the commission of crimes. They thought of the interest of their party, of the success of the form of government which they defended — of everything except that in civilized nations there are laws for punishing fraud and spoliation, and judges to apply these laws.

Even when the public had learned of the crimes that had been committed, the governments, instead of aiding the work of justice, tried to impede it. It was only reluctantly, under the pressure of public opinion, that it consented to allow the prosecution of the criminals; and then it placed every difficulty in the application of the law and seemed to have only one wish, that of hiding everything, It is perfectly intelligible that

a statesman should try to avoid a scandal which would throw discredit on his party and the entire country. Such a sentiment is most respectable. But it is hard to understand why this same sentiment does not manifest itself when there is still time to arrest the offences which are the cause of the scandal.

As long ago as 1879 the Italian government was aware of irregular practices on the part of the banks. In a report presented to Parliament in that year, Ministers Magliani and Maiorana-Calatabiano said: "The difficulties which exist in some of the minor establishments may lead to real disasters if a serious reform of the present state of things does not take place." But the government let ten years pass without providing for anything except to obtain funds from the banks for its own political needs. Finally, in 1889, an examination of the banks was made. That of the Bank of Rome was entrusted to Senator Alvisi and J. Biagini, a government employee. These gentlemen found a secret and illegal circulation of 25,976,358 francs in bank-notes, and Alvisi wrote in his report:

> The methods of accounting in the Bank of Rome are imperfect, its issues are abnormal, its circulation is excessive and partly fictitious, the general balance-sheet is confused, the notes that are to be issued or reserved for renewal are confounded with those kept for future illegal circulation.

With this report under their eyes, the ministers took no steps, except to provide that nothing should be made public.[1] We can quite understand why the government did not deem it advisable to punish the offense already committed; but why did it not do something to prevent further offenses? As a matter of fact its attitude was worse than passive: it facilitated these crimes

[1] On the 22d of February, 1893, Sig. Maggiorino Ferraris (a deputy and sometime reporter of the parliamentary commission which in 1889, after the report of Alvisi, examined the proposed laws regulating the circulation of the Roman bank-notes) said in the Chamber of Deputies: "The president of the council [Giolitti] is not unaware that, to my great grief, the government of that time, of which he was a member and which he represented on the commission, being regularly present . . . knowingly gave false documents to the commission."

which it could not ignore by relieving the Bank of Rome from the obligation of redeeming its notes; and but for the courageous opposition of Sig. Colajanni in the Chamber, the government would have passed a law prolonging for six years the legal-tender quality of bank-notes, including those of the Bank of Rome. In 1891 this institution found itself embarrassed by its clandestine circulation. It did not know how to redeem its notes. The government already permitted the banks to refuse redemption of their notes as far as the public was concerned, but they still had to redeem them in making settlements with each other; this in Italian is called *riscontrata*. The government, to aid the Bank of Rome, issued a royal decree, August 30, 1891, abolishing this *riscontrata;* and so the bank was able to continue its clandestine issue. Another year and a half passed and on the 6th of December, 1892, the government presented a bill prolonging for another six years the legal-tender quality of the bank-notes and maintaining the abolition of the *riscontrata*. At the same time Tanlongo, the director of the Bank of Rome, was appointed a member of the Senate. On the 20th of December, 1892, when Sig. Colajanni spoke of the irregularities of the bank, Minister Giolitti denied that there was anything abnormal in its management. He further said, apropos of Alvisi's report: "The thing seemed so little exceptional that I must confess I never even read that report." But this was not true. Crispi contradicted the statement, and confirmed his contradiction in the Chamber, February 22, 1893, by reading from his note-book the following entry, dated June 14, 1890:

> Giolitti comes to me; we speak of the banks. . . . The Roman bank was severely censured by Giolitti; he declared that the facts discovered in the inspection offer material for the court of assizes.

Giolitti did not dispute Crispi's correction. He replied: "I do not remember exactly the words I used, but since Crispi affirms them, it is the same as if I remembered them." Then he excused himself by saying that *he had been told* that everything had been put in order at the Roman Bank. But

he did not explain why he felt no necessity for verifying what had been told him before proposing a bill for the extension of the legal tender and before appointing Tanlongo senator.

In many respects, as I have said, the Italian bank scandal and the French Panama scandal are comparable phenomena. But if the French nation is often afflicted with the same evils that trouble its brothers of the Latin race, it distinguishes itself by a great energy of reaction. It has a more vigorous constitution; and up to the present time, at least, it bears its illnesses like a young man to whom they are a momentary crisis, not like an old man who can oppose no resistance to disease. It may be that the spectacle of the immorality of a certain class, which has been revealed by the Panama affair, may produce a considerable change, at least for the moment, in the proceedings of the French government; but it cannot at present be foreseen what the change will be.

Notwithstanding the German alliance, the example of France exercises a great influence in Italy. The greater number of persons who submit to this influence do so unconsciously; but this does not make the influence any the less real. In Italy more French books are read than Italian, while German books are scarcely read at all. France still preserves in great part an intellectual supremacy over the Latin race by its literature, its theatres, its science, by personal contact, by the attraction which Paris exercises, and by its affinity of race and character. It is therefore probable that if the parliamentary régime of these nations is to be modified, the modification will begin in France and extend thence to the other Latin countries. But whether future modifications will alleviate or augment the evils that spring from the present régime, the future alone will disclose.

VILFREDO PARETO.

FLORENCE, 1893.

THE UNSEEN FOUNDATIONS OF SOCIETY.[1]

IN this substantial volume of six hundred pages, the Duke of Argyll reviews the doctrines of English political economy and seeks to point out certain fundamental elements of truth which have been neglected or, at least, inadequately handled. He confesses that he had always felt that the old orthodox economists never really "touched bottom." He felt that on superficial facts and shallow motives they reared too heavy a superstructure of dogma.

> Conclusions were reached which contradicted glaringly the actual experiences of life, because they were founded on abstract conceptions and propositions which were badly abstracted and largely composed of hollow phrases or ambiguous words. The whole system of the school of Mill and Ricardo seemed to be an artificial world, with only a few points of contact with the world of nature and of life.

Now, at last, he has joined "those younger writers who have rebelled against an authority which had been too long and too uncritically admitted;" and in this book he seeks to aid in rebuilding a "structure which has been sorely shattered."

Such is the author's own idea of his work.

Far different is the idea a reader gets of it. That the Duke of Argyll has fallen out with the old economists there is no denying; but it is doubtful if he can be said to belong, in any sense, to the new school of writers. Some of the admitted characteristics of the new school are distrust of "the jargon of 'natural liberty' and 'indefeasible rights'"; rejection of the *laissez-faire* philosophy; abandonment of the faith in the identity of private and public interests; subordination of the individual point of view to the social point of view; greater confidence in positive law and institutions; and recognition of the high ethical task of economic science. With none of these tendencies is the duke in sympathy. His only touch with the new school is his distrust of over-hasty abstractions, and his faith in "views derived almost entirely from the observation of facts in the business transactions of life . . . ." The book has, in

[1] The Unseen Foundations of Society: An Examination of the Fallacies and Failures of Economic Science due to Neglected Elements. By the Duke of Argyll. London, John Murray, 1893.—8vo. xx, 584 pp.

fact, no real affiliation with the new economic tendency, but is rather a defense of reactionary economic individualism, called forth by the growth of economic radicalism in England during the last dozen years. It has the intellectual ear-marks of the Liberty and Property Defense League. Instead of being the product of the critical spirit of science, it is the outcome of the practical instinct of self-preservation. Throughout the book there is the note of alarm at the menacing attitude that later reform movements assume toward property and vested interests. The dispassionate, judicial air of the beginning soon yields to the anxious special pleading of the great landowner and capitalist.

From such a production we must not expect too much. The Duke of Argyll has read too scantily in recent economic literature, is too unfamiliar with newer economic analysis, and has too little disinterested regard for economic science, to enlarge our knowledge greatly. At the same time, the tempered abilities of the duke as a critic and disputant, his historical erudition, his philosophical acumen, and his closeness to the facts of business and industry make many of his criticisms well worthy of attention. These warring qualities conspire to bring forth a large, unsystematic work, full of keen observations, faulty analysis, suggestive history, sophistical special pleading, instructive illustrations and confused thinking.

The book opens with three chapters devoted to criticism and definitions. Here the duke proposes that in the formula which specifies the sources of wealth, "land, labor and capital," be replaced by "mind, matter and opportunity." The distinction between productive and unproductive labor is very properly shown to be unscientific and valueless. Six chapters are then given up to tracing the development of property and showing the role played by possession or exclusive use. By a historical review the duke seeks to establish that private property is an indispensable condition of prosperity, and that wealth abounds most where possessory rights are most sharply defined and most sacredly respected. He aims to prove that the individualism of English law has been fruitful of economic benefits wherever it has supplanted native communal institutions.

The duke then takes up and subjects to searching criticism the Ricardian doctrine of rent. As this chapter has already called forth a reply,[1] it will not require extended notice here. Rent he regards as the price of hire. It is needless and unjust to set up a special

[1] On Rent: Prof. Marshall in the *Economic Journal* for March, 1893.

theory for the hire of land. Although land cannot be increased in quantity at will, neither can horses, steam-engines or opera boxes, at a given place or time. The duke denies the proposition that rent is not a part of cost and does not enter into price. Of course the thought here is that rent does not enter into the price-fixing cost at the margin of cultivation. Compare this with the caricature the duke has made of it: "It is the much-vaunted result of that theory that the rent which a farmer of agricultural land pays as the price of its hire . . . is no part of the cost of the crops he may raise upon it." That is, he supposes economists are talking of particular cost instead of price-fixing marginal cost. It has been recognized by economists that the various uses of land so succeed and overlap one another that the margin for one may well be intra-marginal for another. The marginal wheat-raiser, in order to get the land he needs, may have to pay the rent it would command from the cattleman. This connection of uses and superimposition of rents is recognized by Professor Marshall, when he says that the doctrine that rent does not form a part of cost is not true of particular crops, but only of agricultural produce "taken as a whole." This the duke regards as a fatal admission, inasmuch as what is false "as applied to each separate item in a long list of particulars," cannot be true "when applied to the whole of these items grouped together." But is this so? It is true, for example, that in the state the actions of the citizens, taken individually, are determined by the laws. No less is it true that the actions of the citizens, taken as a whole, determine the laws.

The theory of rent demolished, our author passes on to the cost-of-production theory of value, in which the fallacies of the rent doctrine inevitably reappear. Here the duke mistakenly interprets as a theory of market value what claims to be a theory of normal value to which market values tend. It is easy then for him to show that in the case of a sudden increase of population the price of food does not go up because of a greater marginal cost, but because of the accession to demand. Price advances before the resort to inferior conditions of cultivation. The higher price is, therefore, the cause and not the effect of the costly extension of supply. Now while this is perfectly true, it does not overthrow the old doctrine, since it introduces dynamic conditions, while the cost-of-production theory has been wrought out for values under statical conditions where an equilibrium has been reached. To point out that values can not be coupled even with marginal cost so long as movement continues, is

perhaps to limit the cost-of-production theory, but hardly to overthrow it.

But the author exposes himself to far greater criticism when he stigmatizes the whole doctrine of marginal cost as "absurd." That the cost of the marginal portion should be the normal value about which market values play, seems to him as paradoxical as that the whole burden of the camel should be credited to the "last straw that breaks the camel's back," or that the last half-pound of steam should be regarded as the pressure that causes the safety valve to lift.

> And so we see that even if it had been true that the rising price of corn had been due, which it was not, to the rising cost of cultivation, it would be equally absurd to debit the value of the whole supply to the latest and most costly addition to that total.

Here we have a most remarkable instance of defective analysis. Throughout the book nothing is plainer than that the author is totally unacquainted with the newer analysis of the market that has done so much to make economics a science. A little more study of the unseen foundations of market price would have aided in no small measure the search for "the unseen foundations of society." To the "practical man" it does indeed seem hard that all the goods exchanged in the market should have to submit to the tyranny of the uniform market price. It outrages his sense of justice that the valuations of the marginal unit should so prevail over all other valuations. It seems absurd and repugnant to his common sense that in an isolated market it should make no difference whatever how much or how little the valuations of intra-marginal sellers are below the marginal valuation, or how much or how little the valuations of the intra-marginal buyers are above it. Yet these things are so. Stumbling-block and paradox though they be to the tyro, they exist and must be reckoned with. The monstrous despotism exercised by the marginal portion of normal supply in the matter of price-fixing may be manfully grappled with, but it is not by lessons learned from proverbial camels and lifted safety-valves that it will be overthrown.

The author next dwells on that

> monstrosity of pretended science — that the price of all commodities is regulated by the cost of the worst and most expensive agency employed in its production. The truth of the exactly opposite proposition is a matter of continual and familiar experience and observation [With improvements in

production] the exchangeable value of every article or commodity is always seen to be regulated by the best and cheapest, and not by the worst or dearest mechanism of production.

Here again the criticism limps. Reference to later economic authorities would have shown the duke the needlessness of re-exposing the errors of the Ricardian economics, and would have relieved him from the task of issuing forth as a Don Quixote of economic science to level his lance at harmless wind-mills. Here as before he requires the marginal-cost theory to justify itself as a theory of dynamic values, although it never pretended to be aught but a doctrine of normal or statical values. It is certainly true, as the duke contends, that in the struggle of old methods of production with new, not the unfittest, but the fittest survive. When the struggle results in the survival of one, it is the cheapest and not the costliest that survives and fixes the value of the product. But suppose it is impossible to supply the market by the cheaper method. Suppose that both methods must survive in order that supply may be sufficient. In that case value will ignore the cost of the cheaper portions of necessary supply, but will come into relations with the cost of the more expensive portion. When, therefore, the dynamic influence is spent, when the equilibrium is restored, when competition, having worked itself completely out, has resulted in the survival of methods implying different costs, then the law of greatest cost as accurately expresses the tendency of values as did the law of least cost during the struggle of methods.

In spite of the mistakes and misconceptions just noticed, the duke in his pregnant chapter on "The Development of Speculative Fallacies" presents us with an original line of thought well worthy of our attention. He shows how, with the development of economics, the analogy between rent and other forms of profit led men to notice that "advantage, whether natural or acquired," or "any difference in favor of certain producers" or of "production in certain circumstances," becomes the source of a gain governed by the same laws as rent. This is

a generalization which identifies the economic position of every man who rises in the least degree above the dead level of those around him, even in respect to the natural gifts of mind and character, with the position of every other man who has any other possession of any other kind having the same effect of conferring upon him some industrial advantage.

Thus no sooner do we reach the idea of differential advantage than the insidious and dangerous implications of the Ricardian

doctrines of rent and value come to light. For when we separate the hire of land from the hire of other productive instruments, such as horses, implements, *etc.*, and set up the proposition that rent forms no part of the value of agricultural products, we virtually deem that value to conform to the cost of production at the no-rent margin of cultivation. From this we reach the law that normal values tend to conform to marginal cost. The income of a producer enjoying a differential advantage may be divided, therefore, into an earned portion, corresponding to what he could secure at the margin, and an unearned portion, due not to any contribution to cost, but to the possession of an advantage. This distinction becomes most dangerous when applied to economic rewards. For only the reward of the dead-level ordinary man working without any advantage whatever can be said to be earned. Whatsoever exceeds this is of questionable origin. The marginal-cost doctrine therefore traverses the field of value with a line of demarcation. All below this line is just and well earned. All above this line may be suffered as a matter of vested right or expediency, but cannot have the ethical backing of the earned portion. In consequence,

> the lines of insidious suggestion which radiate in many directions from the Ricardian doctrine as from a common center, must lead to jealousy and dislike in the heart of every man who sees another man with any advantageous difference over himself — however purely innate and therefore divinely given, or however meritoriously attained that difference may be. Thus possession in all its forms becomes an object of hatred, along with every institution which gives freedom to men and recognizes the results due to the inborn inequalities and varieties of their nature.

I regard as of immense importance the result arrived at by the duke. It is my conviction that, unknown to its supporters, the cost doctrine of value all along contained a germ of ethical implication capable of great development. It was impossible to set up cost as the standard of value without at the same time calling attention to the exceptions to this standard. This prepared a line of cleavage when the question as to the just distribution of wealth became a burning one. While later economists, in order to square theory with fact, are explaining value by utility and limitation of quantity, the cost concept is being taken up into the ethical consciousness and made the standard for values "as they ought to be." Only since the modern movement against private property in land began, have the implications of the British value doctrine come to light; but already alarmed individuals are abandoning English economics and hastening

to take refuge with the Bastiat school of economists. More than once has this significant exodus come to the notice of the writer. That this uneasiness is due not to the theoretic unsoundness, but to the embarrassing practical implications of English economics, is shown by the ignorance the apostates display regarding the new doctrines that, in the estimation of scholars, have done most to amend the shortcomings of the orthodox system.

After his critique of Ricardian doctrines, the duke pays his respects to Mr. Henry George — the man who gave the Ricardian rent theory a turn most unpleasant to British landlords. The dark picture of American conditions that Mr. George shows is, the duke complacently argues, a plain confirmation of the Malthusian proposition, which he considers "one of the most clearly ascertained of the facts of economic science." The wickedness and corruption of American democracy, especially in cities, shows how unfit are our governing bodies to administer land as communal property. The proposition that land should not be paid for, but simply taken, is a piece of gigantic villainy. The movement to socialize land is a case of Ahab lusting to get Naboth's vineyard, "the inheritance of his fathers." Touching picture, this! Naboth, the British landlord, clad in smock and armed with mattock, toiling in his vineyard, and the rich, despotic Ahab-Demos pouncing down and seizing his little property! This, taken with the other Biblical allusions that abound in the book, would seem to indicate a clever attempt to exploit the well-known Hebraism of the British Philistine in the interest of the imperilled landlords.

After reviving the hoary fallacy that luxury makes work, in describing an American millionaire who, in building his palatial mansion, "had spent among the artificers of that city a great sum of money, and had, in the same proportion, contributed to the only employment by which they live," the author passes on to the wage-fund theory. He rejects this doctrine and prefers to the idea of a fixed fund, the later notion — that of a flowing stream of goods from which all particular incomes are derived. But what importance the employer loses by the concession that wages are paid out of product, is immediately restored to him by the duke in his analysis of the *entrepreneur* function. He agrees with the French and later American school in magnifying and even glorifying the captain of industry. To conceive the source of wages as merely a stream of commodities, is too "materialistic and mechanical." Speaking of a certain manufactory of chinaware, he holds:

The real wage-fund was, first, the brain-work of the original conceiver of the whole design; secondly, the brain-work of the capitalist who estimated the degree of confidence to be placed in his conception; and, thirdly, the mental appreciation of the public as regarded the beauty of the ware.

And so, in many enterprises, there coöperate the conceiving mind, the constructive mind, the risking and self-denying capitalist, and, lastly, the manual laborers, who, blind to all but the visible and material, are prone to exaggerate their own importance and overlook the contributions of the other coöperators. The laborers must be taught that in the brain of the conceiver lies the great source of their wages, and must abandon the dangerous fallacy that those who toil visibly with their hands are the just owners of the product.

Now, the happy conjunction of conceiver, planner and capitalist that affords the laborer employment, presupposes, above all things, security. That is one of the "unseen foundations," because it conditions all Design. The undertaking of the typical modern industrial enterprise, implying, as it does, the coördinated and harmonious outlay of many large sums in special directions and in particular ways, through a long period of time, ere the hoped-for value can appear, presupposes a vast amount of anxious calculating to discover if the enterprise can be made profitable, and, if so, what methods lie along the line of least economic resistance. This, in turn, presupposes such calculableness in the problem as is afforded by abundance of exact data, permanency of properties and relations of the elements dealt with, and absence of unforeseeable and incalculable changes. Nothing, therefore, can be more needful to industrial health than to preserve the calculableness of the industrial factors. The liability of the conceiving mind to be paralyzed by uncertainty, has long been recognized in the popular phrase, "sensitiveness of capital."

The duke's analysis of modern enterprise and his study of the functions of the *entrepreneur* are very fine, and constitute by far the most original and valuable contribution in the book. There is about it a touch with real life and a grasp of the concrete which dispose us to concede him his point. We must admit that the adoption of long-period methods, together with production on a large scale, lends greater importance to certainty and security. In other words, there is an opposition between rapid industrial advance and rapid political and social advance. For its maximum efficiency private enterprise requires unchangeableness of taxes, laws, institutions, relations and rights.

But is there not another "unseen foundation"— one which is endangered by pressing this doctrine too far? The duke's "security" is, after all, nothing but the ancient conservative watchword of "order." He has simply traced for us the need of order in the industrial sphere. But by fixing our eyes on security we lose sight of progress. And it would be hard to prove that at the present moment civilized communities are risking security for the sake of progress. The cause of growth — of readjustment — is always unduly weak, because it must encounter not only those who, like the duke, idolize security, but also those who, from intellectual slothfulness or crass stupidity, cannot value either security or progress, but still fling their brute strength on the side of "whatever is." To press to its last consequence the theory of possession and security, would be fatal to growth and life. If the individualistic ethics of the Liberty and Property Defense League should prevail, the state — one of the chief organs of social progress — would be as helpless in the net-work of vested interests and individual rights as Gulliver in the toils of the Liliputians. If possession be suffered to lord it over other canons of right, every avenue of progress will be so choked by a thicket of private claims for compensation and damages that each step will cost more than it is worth and reform will become impossible. When the day comes that the process of healthful readjustment is halted by the accumulation of impudent and exorbitant claims resting on no support other than prescription or possession, the upburst from below will show that security and possession are not the only "unseen foundations of society."

But it would be easy to prove that a society recognizing the exclusive sacredness of possession and of contract would be far from realizing security. What the duke values so highly is possessor's security; for his political economy is, after all, nothing but economics for the landowner and capitalist. As to the insecurity that is really menacing in our day — the precariousness of employment, of livelihood, of support for old age, of freedom from employer's dictation — the duke has no word. Security would appear to be something invented for the holders of tangible property, but not for the owners of skill, experience or labor power. It is something very necessary for those already most secured against the ills of life, but quite superfluous for those who already bear the main burden of pain and uncertainty entailed by our industrial system. Taxing each according to product guarantees security, while shifting the burden to the holders of unusual natural opportunities

endangers security and undermines the "unseen foundations of society!"

The duke next takes up the problem of monopoly. He says:

> Monopoly is that system under which the possession of commodities does not carry with it the right to the possessors to deal with their own goods as they choose. [It means] an exclusive right of dealing in any article; which right is given to men to whom the article does not belong. . . . It is the purchaser who is the monopolist, in virtue of his privileged right, artificially created, of purchasing at preferential rates. . . . There can be no such thing as a "natural monopoly." The very phrase is a contradiction in terms.

The essence of monopoly is something artificial, *viz.*, privilege. Monopoly implies "restraints, artificially imposed, for the purpose of preventing the automatic movement of natural values." Judicial rents, legal prices for gas, "commission" rates for railroads and elevators would come within the duke's definition. On the other hand, there would be no monopoly element in the natural charges for transportation, gas, ferriage, wharfage, coal or oil.

All this pains to divorce the odious word monopoly from something the duke justifies, and to attach it to something he strongly dislikes, is a very clever diversion in favor of *laissez-faire* individualism. Holding the doctrine of value he does, the duke should defend and justify that category which men have distinguished and named "monopoly value." But, instead of breasting the current of feeling against non-competitive values, he seeks to turn it aside by affixing the word monopoly to all interferences of the state with natural supply-and-demand values. This strategy, however, will not avail him. Economists will not suffer him to mask his doctrines by playing fast and loose with settled economic terms.

The law of supply and demand, as developed into the law of marginal utility, is the accepted law of market values. On seeking the normal values to which these tend to conform, two laws are discovered — the law of marginal cost and the law of monopoly. The former prevails with competition; the latter where competition is absent and supply is controlled by a single will. Under these conditions market values tend to conform to the rate that will afford the monopolist the maximum net revenue. Owing to the independence of demand, this fixing of exchange rate can be effected only by control of supply. The essence of monopoly as an economic fact is therefore limited supply, as contrasted with the normal supply that results wherever there is free entrance of productive powers into the given area of production.

Now this conception is valuable to economists, inasmuch as it unites a number of related phenomena having laws and peculiarities of their own. But the conception of monopoly which the duke offers is economically worthless. It is a political, not an economic category. It sunders like economic phenomena and unites those economically unlike. A disturbance of natural values by legal interposition is monopoly, but the same disturbance effected by the demoralizing and unscrupulous measures of an aggressive "combine" is excluded from the definition. On the other hand the relief given to a people by the fixing of reasonable rates by a railroad commission, is classed with the odious privileges once granted by reckless kings to favorite courtiers.

From the point now reached we can glimpse the trend of individualistic economics. The duke calls Henry George a "preacher of unrighteousness" such as the world has never seen. Henry George points out that there is one great element of income for which no real service is rendered, *viz.*, economic rent, and reasons that therefore this should be enjoyed by the community. Now comes the Duke of Argyll to show that differential advantages and the gains therefrom are everywhere. Therefore we must throw away the concept of cost, blot out the words "earned" and "unearned," and no more inquire what services men render for what they receive. Since we cannot bring values to conform wholly to sacrifices, let us utterly surrender ourselves to their blind drift. Since men's rewards cannot be made proportionate to their services, let us cease hoping for any degree of correspondence. Let us re-define value so as to avoid troublesome collisions with ethics. We will deem righteous and sacred all values that are "natural," and wicked all values that have been "interfered with" by law. We will hold in the odor of sanctity all interferences by private rascality for selfish gain, but will anathematize all interferences by the public power for the common weal. The desperate devices of banded commercial pirates to check the flow of productive powers and create artificial scarcity, we shall regard as "free enterprise"; while the effort of the state to clear away these obstructions is "monopoly."

In view of the moral indifferentism of these new doctrines, may it not be possible that when society has done as much to bring men's rewards to correspond to their deserts as it has done to make their actions conform to their rights, the Duke of Argyll, and not Henry George, will be deemed the "preacher of unrighteousness"?

EDWARD A. ROSS.

REVIEWS.

History of the New World Called America. By EDWARD JOHN PAYNE, Fellow of University College. Vol. I. Oxford, at the University Press, 1892. — xxiii, 546 pp.

Mr. Payne's noteworthy volume is at once a concrete history, with definite limits of time and place, and a strikingly original study of the philosophy of history in general. Whether the completed work will be chiefly history or chiefly philosophy, one can hardly determine as yet from internal evidence, and Mr. Payne does not tell us in his preface or elsewhere whether he cares most for the story of the New World as a chapter of human life to be explained, or for the theory of civilization which he thinks it discloses, and by the aid of which he interprets events. Perhaps neither alternative quite describes his purpose; it might be more accurate to say that he has found himself unable to write American history intelligently or truthfully without reconstructing the philosophy of history, and that he therefore perceives in the evolution of social life on this continent the clearest revelation of the universal laws and causes of human progress. Either way, the careful reader does not turn many pages without discovering that Mr. Payne has entered upon an undertaking of great magnitude, boldly and independently conceived, and has brought to its execution an equipment of philosophical ability, learning, scholarship and literary skill.

The present volume includes an opening book on the discovery of the New World and a considerable part of a second book on aboriginal America. Superficially, therefore, it resembles the first volume of Mr. Fiske's series. The two works resemble each other, too, in their thoroughgoing purpose to account for the course of events before and since the voyages of Columbus in terms of a naturalistic or evolutionist philosophy. But beneath this likeness there are radical differences. Readers of Mr. Fiske's early essays will remember that his first serious writing, published in the *North American Review* when he was nineteen years old, was a trenchant criticism of Buckle's explanation of civilization in terms of such purely physical causes as topography, soil and climate. In his latest work he still holds to his youthful notion that history and heredity are more important social causes than environment, and we find

him, accordingly, explaining the downfall of Spanish and French power in the New World in terms of the inherited psychology and institutions of those races. Mr. Payne, on the contrary, revives, with the modifications and limitations suggested by later and better knowledge, the view of Buckle. His account of the discovery, going over the ground and much of the material already made familiar in the pages of Winsor, Fiske and other recent writers, is valuable chiefly for the prominence it gives to such purely physical causes as ocean currents and continental configuration in determining the time and circumstances of the great voyages; while in the second book we have a study of the influence of physical geography upon aboriginal culture and, through the latter, upon colonization and white civilization, which surpasses in penetration and suggestiveness all previous work in this direction.

This second book demands all the space that can be accorded to the entire volume in a brief review. Works on American history usually have described the aboriginal life, but as a thing apart, in no way entering as an efficient cause into the sequence of white civilization. In an argument of great vigor, based on facts that everybody knew, but to the full significance of which all historians have been blind, Mr. Payne shows that the direction taken by American history cannot be explained by European influences only. Under papal authority Spain became possessed of the whole continent except that part of tropical South America, the north-east angle, which fell to Portugal. Her claim was independent of settlement or colonization. England and France could found claims only on discovery, actual occupation and settlement. Yet when they entered seriously upon the work of colonization, all those portions of North America best adapted to civilization of an European type were still virgin land, because Spain had expended her energies in conquering and plundering the populations of Mexico, Central America and Peru. Spain followed this policy because these populations, unlike the northern tribes, were politically and religiously organized, permanently established on the soil, agricultural and industrial in habits, and rich enough to be worth robbing. It is evident, therefore, that the causes which had determined their development and confined it to regions in which white civilization could never flourish — regions which to-day, in fact, are essentially aboriginal in population and modes of life — were the true antecedents of American history, and that they were American, not European, causes.

Now those causes, so important and far-reaching, were the conditions which enabled the populations of the table lands, and no others, to advance from a natural to an artificial food supply. This transition, according to Mr. Payne, has been everywhere, in the Old World or in the New, the true beginning of civilization. This is the key to his theory of history, of social evolution. Physical conditions determine the possibilities of change, because they determine the distribution of animals that admit of domestication, of plants that admit of cultivation. In these respects the Old World possessed an immense advantage over the New, in which there was no animal larger than the llama fit for both food and labor. Tribes that have not begun to depend chiefly on an artificial food supply are still in savagery. Because a meat diet is preferred to vegetables and grain, most of the tribes of North America, lacking animals that could be domesticated, remained in savagery as hunters. When the transition to an artificial food supply has been accomplished, it, in turn, transforms social organization, religion, thought and morals. When these changes are completed a population has become civilized. If they are accomplished on the material side only, by the acquisition of artificial food, while thought and manners remain savage, the population is barbarian. To reach true civilization, a progressing people must be able to maintain a warrior class to protect the agricultural class against surrounding savagery. No American population got so far as this, and none, therefore, ever got beyond barbarism; and even barbarism was maintained only in those regions which were at once cultivable and relatively inaccessible, namely, the mountain table-lands.

Such, in brief, is the theory. Criticism must be even more brief, and therefore very incomplete. The interpretation of civilization in economic terms which Mr. Payne is attempting is a long stride in the right direction. He has seen, what all sound work in sociology and economics has been disclosing for a dozen years or more, that civilization is at bottom an economic fact, and that it is the economic phenomena in society that ultimately shape the legal, the political and even the religious conceptions and activities. The relation of religion to the economic basis of society Mr. Payne examines with great care, and some of his observations are extremely shrewd, as, for example, where he explains how household and tribal gods have to undergo a selection, and that those which survive owe their fortune to their supposed utility, having brought health, luck or fertility; or again, where he suggests that monotheism has an

advantage over polytheism in that it reduces the costs of sacrifice, and that therefore on economic, as well as on rational and emotional grounds, a non-sacrificial and spiritual religion like Christianity is the only one compatible with civilization of a high type. But in these explanations Mr. Payne does not, after all, go far enough, and this is the chief fault of his work. He does not show us how or why a change from the natural food supply to an artificial supply may or must take place under given circumstances, or why, after it has taken place it must, rather than does or may, effect social transformations. These are problems that can be dealt with only through an employment of those modern theorems of utility, cost and value that have been elaborated in recent political economy. Their application to sociological questions cannot be long delayed.

A minor criticism may be made in closing. Mr. Payne's notions as to the origin of spirit worship and of gods are by no means clear. He brushes aside Mr. Spencer's ghost theory with small respect, and evidently thinks that a belief in spirits precedes all savage reasoning on dreams, shadows, *etc.* The whole controversy on animism *vs.* ghostism is becoming absurd. All the facts yet adduced on either side are most easily and naturally explained by the supposition that the savage interpretations of causation which are known respectively as animism and the ghost theory, are both too subtle and complicated to be primitive. They are slowly differentiated from a jumble of ideas that we can now recognize as belonging partly to one class and partly to another, but which were hopelessly confused at the dawning of human thought. Whatever the difficulties presented by any explanation, they are nothing to Mr. Payne's amazing assumption that spirits were "invented." On the other hand, what Mr. Payne says on the origin of totemism is admirable.

FRANKLIN H. GIDDINGS.

The Eve of the French Revolution. By EDWARD J. LOWELL. Boston and New York, Houghton, Mifflin & Company, 1892. — viii, 408 pp.

Two great historians have already written, from totally different standpoints, elaborate works on the *ancien régime.* But both de Tocqueville and Taine pursued their investigations merely as introductory to studies on the French Revolution itself, and behind every line they wrote the influence of that great upheaval of society may be seen. Both these writers endeavored to show that the

events of 1789 were the inevitable consequence of the putrid condition of eighteenth century institutions. Thus the title of de Tocqueville's last chapter is: "Comment la Révolution est sortie d'elle-même de ce qui précède." Such a method most naturally tends to emphasize the vicious sides of the French social structure. Mr. Lowell has conceived his task differently; he purposes to describe the "social and political conditions existing in the reign of Louis XVI," without reference to subsequent events. His plan is better than that of his precursors, but for its execution he lacks their intellectual depth and vigor.

The materials used have been mainly contemporary memoirs, the writings of the economists and philosophers, the parliamentary archives, the *cahiers*, as well as the numerous modern French works on this period. The French historian to whom Mr. Lowell is most indebted is M. Babeau, without whose aid, as the author himself acknowledges, several chapters of the book could not have been written. The modern German historians and economists, with the exception of von Sybel, have been totally neglected. Nor can we find any reference to that excellent little book of Pizard, *La France en 1789*, nor to Stephen's *History of the French Revolution.* The most signal omission in the bibliography is that of Louis de Loménie's comprehensive work on *Les Mirabeau.* Corresponding to this omission in the bibliography, is a serious omission in the text. For even if we do not accept Mr. Stephen's exalted opinion of Mirabeau, it cannot be denied that this great statesman and political philosopher deserves some mention in a book of this scope, in which a number of pages are devoted to Condorcet and Siéyès. A short account of the vicissitudes of the first fifty years of Mirabeau's career would have thrown much light on many peculiar features of the *ancien régime.*

As regards the arrangement of the material, there is a marked lack of proportion and a suggestion of padding. Too much space has been devoted to giving outlines of the works of Montesquieu, Rousseau and other writers. While in the case of such monumental works as the *Contrat Social* and the *Esprit des Lois* this may be legitimate, there is absolutely no reason, in a book of this size, for giving an elaborate outline of the *Lettres Persanes*, or for devoting an entire chapter to the *Nouvelle Héloïse* and the *Émile.* The analysis of Locke's philosophy is also superfluous, and Mr. Lowell's criticism of the effects of the *gabelle* (pp. 222, 223) is, to say the least, out of place.

In spite of these defects the book is worthy of a good deal of praise. The style of the author is vigorous and lucid; his thought is judicious and impartial. Mr. Lowell has emancipated himself from the *doctrinaire* theory that nothing of good is to be found in the *ancien régime.* He criticizes the natural-law school from the standpoint of that era and not from that of modern historical evolution. Of the doctrines of this school he justly says: "They suited the stage of civilization which the world had reached. . . . Their very exaggeration was perhaps necessary to enable them to fight, and in a measure to supplant, the older doctrines which were in possession of the human mind." Mr. Lowell, however, has added but little to our positive knowledge of the period, though he has put many old facts into a new and occasionally a more accurate light. While in some respects his picture is more complete and impartial than that of Taine or de Tocqueville, Mr. Lowell, as regards brilliancy of expression, philosophic breadth, acuteness of analysis and originality of thought, can in no manner challenge comparison with these historians.

GEORGE LOUIS BEER.

Formation of the Union, 1750–1829. [Epochs of American History.] By ALBERT BUSHNELL HART. With Five Maps. New York and London, Longmans, Green & Co., 1892.—12mo, xx, 278 pp.

The French War and the Revolution. [The American History Series.] By WILLIAM MILLIGAN SLOANE. With Maps. New York, Charles Scribner's Sons, 1893.—12mo, xxii, 409 pp.

The art of properly condensing history is such a difficult one that it is almost impossible to praise too highly a writer who, like Professor Hart, has succeeded so well in it. His volume on the *Formation of the Union* is the best piece of condensed historical writing that I am acquainted with. Apart from the excellent apparatus of maps, contents, index and bibliographies that will delight every teacher; apart from the careful selection and arrangement of matter; there is something that distinguishes this volume from nearly all others of its class. I mean its style, its manner of saying just the right thing in just the right way — in a word, its thorough readableness. There is not a dull page in it; and, what is more remarkable, there is little or no evidence that the author has sacrificed or distorted the truth of history in order to make a

readable book. Here and there, perhaps, the critic can find occasion to pick a small quarrel; but I must confess that I had not read ten pages before I was in the admiring rather than in the critical mood.

Professor Hart treats his extensive subject in twelve chapters of moderate length. Those on "The Americans in 1750" and "The Expulsion of the French" are marvels of conciseness and lucidity. The third chapter, giving the "Causes of the Revolution," is refreshingly free from the blatant partisanship which such accounts are wont to show. It is pleasant to find such frank utterances as these:

> The movement, started by a few seceders, carried with it a large body of men who were sincerely convinced that the British government was tyrannical. The majorities thus formed silenced the minority, sometimes by mere intimidation, sometimes by ostracism, often by flagrant violence. One kind of pressure was felt by old George Watson, of Plymouth, bending his bald head over his cane, as his neighbors, one by one, left the church in which he sat because they would not associate with a "mandamus councillor." A different argument was employed on Judge James Smith, of New York, in his coat of tar and feathers, the central figure of a shameful procession.

A dozen pages of rhetoric reciting the woes of the loyalists would not have given the reader as clear an insight into the most disgraceful phase of our revolutionary history as these two concrete incidents, cited so simply and appropriately by Professor Hart.

The history of the war for independence is given in the briefest outlines. One effect of this necessary compression is that the character of Washington does not stand out in as full relief as I should like to see it and as, I am sure, Professor Hart would desire to have it. Another is that such a brave and important exploit as that of George Rogers Clark is dismissed in half a sentence that does not contain the pioneer soldier's name. But we cannot expect everything; and it is well to have Professor Hart point out the assumption by the Continental Congress of the very powers which, when exercised by England, had caused the revolution.

In treating Madison's administrations I do not think that Professor Hart brings out all that may be said as to the uselessness of the War of 1812, and the unpleasant figure we cut by playing into the hands of Napoleon; but it is gratifying to find that he refrains from a pæan of glory over Jackson's victory at New Orleans. He closes his work with a general sketch of the elements of social, economic

and political reorganization that were manifest in the two decades succeeding the war.

Professor Sloane's book belongs to a series which is intended to be more exhaustive than that of which Professor Hart is the editor. Practically, he has three pages at his disposal to Professor Hart's one; and this larger space, and the consequent sense of roominess, have had some effect upon both his style and his matter. His book is not wanting in what the French term *longueurs*. For example, he will often give several paragraphs to European affairs that might be recalled to the reader's mind by a sentence or a phrase; but, perhaps, he can urge for this the popular character of the volume and the popular ignorance about such matters. Be this as it may, Professor Sloane is certainly a conscientious writer, who has studied his period well and has a broader grasp on the principles of general history than most specialists are wont to have. Many a paragraph will be found to furnish copious food for thought; and such a masterly chapter as that on "The Peace of Versailles" would alone justify the existence of the book.

The volume opens with a description of the English people in the eighteenth century (the propriety of which in such a volume might be questioned), a good account of colonial institutions, and a sketch of the relations between the English and French in this country prior to 1756, with a brief but satisfactory description of the Indian tribes. Five chapters are then devoted to the details of the French and Indian War. Here Professor Sloane shows his powers of description at their best in his very excellent account of the capture of Quebec. His treatment, too, of the Peace of Paris is a great improvement on the usual method of popular historians, who are too apt to pay little or no attention to diplomatic details.

The account of the Revolutionary War occupies nearly half the volume. The treatment of the causes, if a little lengthy, is suggestive, and gives the British side with more than usual fullness and fairness. The strictly military details of the war are presented with much care.

Like Professor Hart, Mr. Sloane inclines to a nationalistic interpretation of the union formed by the colonies for mutual defence; but he gives fuller weight than the former writer to the particularistic ideas and tendencies of the time that militate against such an interpretation. In view of these particularistic tendencies it seems rather impracticable to lay much stress on the nationality of a people who, in the mass, were more conscious of their separateness,

unless one is determined to solve constitutional questions after the cut-and-dried fashion adopted on the Northern side by Mr. Loring in his recent volume (*cf.* this QUARTERLY for September, 1893, p. 585), and on the Southern side by such writers as the late Mr. Stephens. Is it not time to give the constitutional lawyers a monopoly of such methods, and to turn over to them, at the same time, for exclusive use, Mr. Gladstone's famous saying?

Professor Sloane's concluding chapter, "Weakness and Strength," sums up the character of the government bequeathed us by the war. His judicious volume will contribute materially to the diffusion of a rational, as distinguished from the long current "jingoist," view of this whole period.

W. P. TRENT.

The City-State of the Greeks and Romans. By W. WARDE FOWLER, M.A. London and New York, Macmillan & Co., 1893. — Small 8vo, x, 332 pp.

Conceding the accuracy of the author's prefatory assertion in respect to this book, that "there is absolutely nothing new in it," very few readers, I think, will be disposed to quarrel with him for having put it in print. Ancient history and politics have never been *a priori* so attractive to students that any healthy stimulus to work in this field can be regarded as superfluous. Mr. Fowler's survey of the ancient state will hardly fail to attract any intelligent person who takes it up. It presents a sketch of all the salient points in the development, the structure, the action and the decay of the πόλις as a type of state life, and it presents this with a method that is most suggestive and in a style that is most readable.

The birth of the city-state in the East the author assigns to the dim centuries between Mycenæan and political Hellas; in the western peninsula, he finds that the date is absolutely unknown. In Hellas, he traces in broad outline the development of the system in Athens till the culmination in a perfect democracy; in Rome he follows the development to its climax in a perfect oligarchy. Democracy and oligarchy alike are then described in their decay, while the city-state sinks into the grave prepared for it by the empire.

The author's descriptions of institutions are concise but adequate; his analysis of social aims and tendencies shows sound historical judgment; his appreciation of the Athenian and Roman character is most sympathetic. It is possible that his enthusiasm for the age

of Pericles has brought him, while discussing this period, just a little in conflict with the sound Hellenic maxim, μηδὲν ἄγαν; but only a Philistine would seriously censure that in a work designed as a stimulus to loftier culture. Again, the author's temporary habit of the superlative at this point may account for his description of the Greek democracy as unsurpassed in political and legal conservatism till the advent of the great American democracy (page 170), though shortly afterwards he asserts that "the conservative instinct . . . was far stronger in the Roman than in the Greek" (page 211).

But no higher tribute is necessary to the book than the statement that the flaws just suggested are the most serious it presents. Taken as a whole, it is a most satisfactory summary of the philosophy of the ancient state.

WM. A. DUNNING.

Auswanderung und Auswanderungspolitik in Deutschland. Berichte über die Entwicklung und den gegenwärtigen Zustand des Auswanderungswesens in den Einzelstaaten und im Reiche. Im Auftrage des Vereins für Socialpolitik, herausgegeben von Dr. E. VON PHILIPPOVICH, Professor an der Universität Freiburg i. B. Leipzig, Duncker & Humblot, 1892.—xxxiii, 479 pp.

The heartiest praise must be accorded to Professor Philippovich and his collaborators for the excellent and thorough way in which they have fulfilled the task assigned to them by the *Verein für Socialpolitik*, and given us an authoritative history of emigration from the different states of Germany, with a description of the legislation in each regarding that important subject. Emigration, on its present scale and under present conditions, is essentially a modern phenomenon; nevertheless, the question of the attitude of the state to it, and its relation to the interests of the community, are general questions of political science upon which it is extremely useful to have the light of history. These essays furnish us, as it were, with the necessary perspective to complete a picture which hitherto has been all foreground. We see not only the gradual growth of the movement itself but also the evolution of a public opinion in regard to it.

In all these states we find the history beginning with the mediæval prohibition of emigration. The man belonged to the community and could not throw off the bonds of allegiance without the consent of

the sovereign. This provision was also, to some extent, in the interest of the subject himself; for he was not allowed to emigrate even to a neighboring German state without having first secured the right of settlement in the new state. The *heimathslose* man was regarded with horror. The influence of revolutionary ideas was to loosen this control to a great degree, and formal permission to emigrate was obtainable on condition that the emigrant had paid his taxes and debts, provided for those who might be dependent upon him and fulfilled his military duties. Improved means of communication made these provisions unenforceable except by the harsh confiscation of property left behind. At the same time the more liberal and social-regarding modes of thought began to consider the advantages to the hundreds of thousands of poor people who were seeking and finding in the New World material comfort for themselves and prospects for their children which they could never have found at home. Had a civilized, liberal government the right to interfere with such a movement? Since the "thirties" and "forties," the German governments have generally kept their hands off the emigration movement. In some cases they have even assisted the emigration of paupers, in order to be relieved of the burden of their support (*cf.* pages 138 and 224). The Malthusian fear of over-population has also had some influence, as well as patriotic dreams of founding a new *Deutschland* across the sea — which latter have shattered on the lack of unity in Germany herself and the dissolving influences of American life.

In recent years the interest in the question of emigration has revived in Germany, and this book is representative of the demand that the German Empire shall adopt a settled line of policy in regard to it. By the German constitution of 1871 the right to regulate emigration is given to the empire; but nothing has as yet been done. It is necessary that there should be a uniform law upon the subject, which has hitherto been left to the individual states. A second demand is for more stringent regulation of the emigration agencies, by which of late years the business of alluring emigrants has been carried on with the greatest recklessness and disregard of the interests of the people themselves. Recent colonial enterprises have revived the dream of extending German influence abroad, if not by direct settlement — which, probably, will not amount to very much in the tropical lands which the German Empire has annexed — yet, by establishing closer commercial relations with the great masses of Germans, those settled in the United States, for example.

The philosophic tone of the book is admirable. As Professor Philippovich says, there is no sign of a cessation in the movement of emigration. Owing to social conditions and to the influence of the thousand bonds of connection between the emigrants and those who have stayed behind, it has become almost a normal movement of the population. The government could not stop it even if it desired to. But it can prevent abuses; it can extend its care to its people even when they are about to leave the fatherland; it can encourage every effort to establish relations of affection and mutual interest between Germany and her sons scattered throughout the world.

RICHMOND MAYO-SMITH.

Socialism and the American Spirit. By N. P. GILMAN. Boston and New York, Houghton, Mifflin & Co., 1893. — 8vo, 376 pp.

Mr. Gilman's volume is a distinct and welcome addition to the growing discussion of the nice issues between individualism and collectivism. It must be granted that the "American spirit" in regard to these special questions stands for a fact of real importance. The Anglo-Saxon spirit, or even the spirit of Great Britain, would be far vaguer and more open to obvious criticism. Australia, for example, shows us phenomena of state and municipal activities which go much beyond the experience connoted by the "American spirit." This latter, Mr. Gilman says,

> will hold back the state from no field which the state can cultivate better than private persons, or in companies, because of any theory of individualism. It will close no career to lawful enterprise and private talent because of any theory of socialism. It will be content to be opportunist and serve its own time, as it can live only in the present. It can be said with entire confidence that American legislatures make no laws out of an unquestioning adherence to a rigorous and vigorous theory; nothing has occurred since socialism has been more warmly discussed here that indicates any fundamental alteration in the tendency or the temper of the American people. They have legislated for their own actual condition, with no particular reference to individualism or socialism. [Page 188.]

The above may be said to characterize with much precision the past, and upon the whole, the present attitude in America toward socialism. It is the genius of the practical spirit to care little for names or phrases. This trait of political character in the United States gets no stronger emphasis from Mr. Gilman than from those like de Noailles, Boutmy, von Holst and Bryce, who have studied

our institutions with most care and intelligence. Professor Boutmy says: "In the United States democracy has never allowed itself the luxury of a philosophical theory. It has remained eminently realistic, strictly practical." Bryce is quoted as saying:

> Their greatest achievements have lain in the internal development of their country by administrative shrewdness, ingenuity, promptitude and an unequalled dexterity in applying the principle of association, whether by means of private corporations, or of local public or quasi-public organisms.

Mr. Gilman shows great skill in the portrayal of this ever-predominant instinct to go straight to the mark, independent of theories or traditions. The strength of his admirable book is in its interpretation of this historic quality of the American spirit, and in the truth and accuracy with which it is brought to bear upon the problems about which individualism and socialism turn. Nothing is more wholesome than to remind us of these facts — nothing better than to keep it clear before our minds that our social and political problems must be dealt with along the lines and in the spirit of our own history. The state socialism of European countries has for us quite as much of warning as of encouragement, and even those experiences from which we may learn much can only teach us wisely when the "American spirit" is so fully ours as to preserve us from anything like slavish imitation.

It should not, however, be forgotten that the essential genius of this spirit is not to fear imitation. "Abroad be damned!" is quite as faithless to what is best in this spirit as are the hasty conclusions which would lead us to copy the socialistic experiences of foreign states. Economic conditions in the world market are becoming so alike that the greater differences of method and administration seem sure to pass away. It seems difficult to see why Huddersfield should manage her horse-cars with such success, or the German towns introduce to such advantage the municipal control of slaughter-houses, while the same should not hold eventually of Springfield or Providence. Mr. Gilman uses with force the current objection that in the present condition of our civil service such extension of functions would be open to all the obvious perils of political corruption. To those who ask for such control of street railways, *etc.*, he says: "This notion is purely *a priori*, and it conflicts with experience. If the state is to do anything more for the public than it now does in America, the existing agencies must be first thoroughly purified." This argument has played and still plays a great part in Russia against the extension of new powers to the *mir*, as it plays a part

against the claims for Irish home rule. It has even had immense use in Germany against the very municipal reforms which have proved their excellence. It is indeed an argument that has played rather a sorry rôle in the history of social improvements.

There is so much truth in Mr. Gilman's view, that the fear must be seriously met and the dangers most carefully guarded against. Yet it is safe to maintain that a cautious extension of state and municipal functions may itself become part of the purifying process. One reason why the citizens of German towns are more and more careful to secure a trained business man for mayor is because they have been brought to see that inefficiency in the executive costs the electors far too dearly. How are we likely to train our voters to see this, or greatly to care for it, unless city officials have such business responsibilities thrust upon them as will show openly and clearly how direct a relation exists between the voters' pockets and good business management? Nothing seems now more likely than a slow and cautious extension of such municipal functions as one element in this educational process. The author's whole line of reasoning seems to allow for this. Nothing is more characteristic of the "American spirit" than the inventive genius, and no reason can be given why this should not have an application to social and economic policy at those points (as gas works and street railways) where tentative action may most safely be applied. To what extent such action may be carried to the common good no one of course knows, but experimental legislation will alone answer the question, and there is much experience to show that such action becomes itself a part of those educational forces which tend to make secret jobbing impossible.

The volume is so excellent that one regrets to find that old unfairness of definition which makes the socialists appear absurd in wanting or expecting to reach their goal *at once.*

> The state socialist passes lightly over such developments of advancing civilization, and calls for drastic legislation to reach the desired end immediately. But human progress were just as much a vain thing if its method could be changed at once. . . .

Such expressions in reference to the method or expectations of the great mass of leading socialists, are an unconscious appeal to the gallery which one would leave unnoticed except in a book of such singular breadth and fairness. If Mr. Bellamy became dizzied in his anticipations, his weakness should not be put upon the saner leaders of the movement.

JOHN GRAHAM BROOKS.

Poverty: Its Genesis and Exodus. By JOHN GEORGE GODARD. London, Swan Sonnenschein & Co.; New York, imported by Charles Scribner's Sons, 1892. — xii, 155 pp.

Criticisms on General Booth's Social Scheme. By C. S. LOCH, BERNARD BOSANQUET and Canon PHILIP DWYER. London, Swan Sonnenschein & Co.; New York, imported by Charles Scribner's Sons, 1891. — 273 pp.

Pauperism, a Picture, and the Endowment of Old Age, an Argument. By CHARLES BOOTH. London and New York, Macmillan & Co., 1892. — viii, 355 pp.

The State and Pensions in Old Age. By J. A. SPENDER. London, Swan Sonnenschein & Co.; New York, imported by Charles Scribner's Sons, 1892. — xxvi, 165 pp.

Pensions and Pauperism. By J. FROME WILKINSON. London, Methuen & Co., 1892. — vi, 127 pp.

The Destitute Alien in Great Britain. Arranged and edited by ARNOLD WHITE. London, Swan Sonnenschein & Co.; New York, imported by Charles Scribner's Sons, 1892. — 191 pp.

In these six monographs collectively we have a fairly complete picture of recent British thought on the problems of poverty and pauperism, and the order in which the books are named in the list above corresponds to their logical relations.

Mr. Godard attacks the large subject of poverty, including pauperism. The other writers confine themselves to the narrower and more definite topic of the poverty that has to be dealt with under the poor law. Mr. Godard's ætiology is an indictment of the existing economic order and his therapeutics is socialism. General Booth finds the causes of destitution secondarily in industrial conditions, but primarily in "wickedness." He would depend on private philanthropy for the remedy, but he would organize it into a gigantic machine, as paternal and centralized as socialism itself. His critics, on the other hand, see in the workings of all such machines, whether governmental or private, a true and fruitful cause of those defects of character which culminate in pauperism. Inevitably the machine destroys self-help and so, while seeking to perfect remedial administration, it paralyzes preventive agencies.

The next three writers, Mr. Charles Booth, Mr. Spender and Mr. Wilkinson, accept this conclusion as a general principle. The

poor-law administration, notwithstanding the reforms that followed the exposure of 1832, is still the conspicuous illustration of the truth. But they find a particular reason, hitherto generally overlooked, for the pauperizing effects of the law. A painstaking investigation has convinced Mr. Booth that poverty is essentially a trouble of old age. All the details of this investigation are given in the first half of his book, and the reader can criticize for himself the construction of the statistical tables, which show that old age is the chief cause of pauperism in 208 out of 634 individual cases, or 32.8 per cent, and a contributory cause in 107 more. From any point of view it is clearly and beyond question a fact associated in one way or another with pauperism in nearly half of all individual instances, and nothing like the same weight can be attributed to any other one specific cause. So extensive a failure to provide for old age by saving in earlier years, Mr. Booth attributes in part to sickness, inadequate wages and an industrial system that has no use for elderly men; in part to the hopelessness or the indifference that such facts must generate. When men are convinced that, in spite of their best endeavors, they must at last become paupers, they will hardly save as much as they might. Therefore, accepting the fact that the state must in any event provide by rates or taxation for a large class of aged persons, Mr. Booth and the other writers mentioned would substitute for out-door relief under the poor law a uniform state pension for all persons sixty-five years of age and over.

Finally, Mr. Arnold White and the authors of several essays which he has brought together, without undertaking to criticise these or any other plans for the diminution of pauperism, shows how hopeless must be any attempt by public or by private effort to provide for the destitute, so long as the impoverished of nations in which such provision is less adequate may, as immigrants, enter freely into its benefits. This volume, however, is merely a presentation of facts already known, rather than an original investigation, and need not detain us further.

Thus, starting from a proposed state prevention of poverty and pauperism, we pass, by a process of criticism, through plans of organized or unorganized private philanthropy, back to state action.

In Mr. Godard's argument for socialism there is nothing sufficiently original to warrant the reviewer's notice, except his attempt to reformulate its principles to conform to recent changes in economic theory. The labor-time explanation of value has disappeared, and we read of marginal utility. The importance of the employer func-

tion is no longer ignored, but profit is interpreted according to President Walker's theory, as a rent of ability. Socialism is not to "appropriate" the three rents (of land, productive instruments and ability) by mere seizure, but is to extinguish them as forms of private income by the productive process of raising the margin of cultivation, the margin of production and the margin of ability. In this undertaking the public ownership of land and capital will be, after all, of secondary importance to a thorough-going system of education for raising the margin of personal ability. The influence of Walker and Marshall is evident in Mr. Godard's pages, and socialism has only to complete the transformation here foreshadowed to become undistinguishable from a respectable political economy.

The criticism of General Booth's scheme by Messrs. Loch, Bosanquet and Dwyer is by far the most searching and candid examination that that pretentious plan has received. Mr. Loch, who, as secretary of the Charity Organization Society, knows the facts at first hand, makes a merciless exposure of the essential (though let us hope unintended) trickery of the *Darkest England* statistics. The figures were taken by General Booth from Charles Booth's *Life and Labor of the People.* Put together in new combinations they were made, apparently, to reveal conditions that Mr. Charles Booth had already shown by anticipation to be impossible or even inherently absurd. Mr. Bosanquet's criticism, also, is founded on Charles Booth's work, of which he says:

> I have never known another case in which so annihilating a criticism has been made by anticipation, simply through the expert's general knowledge of the tyro's habitual blunders. It makes me almost despair of the reality of our interest in this subject when I hear people fluently discussing *In Darkest England*, who stare bewildered when asked: "Have you read *Life and Labor in East London?*"

All three writers, nevertheless, find many particular suggestions in General Booth's plan that they think worthy of experimental test on a small scale and under properly controlled conditions. Among these are the inquiry office and the farm colony. Mr. Bosanquet is especially severe, however, in his condemnation of the waste-food collecting by the Household Salvage Brigade, which he describes as a scandalous plan to encourage waste by counting on it.

Of all plans of social amelioration thus far discussed, it is undoubtedly that of the endowment of old age which just now receives most serious consideration in England. Though industrial socialism makes some headway in municipal politics, and public education is

being organized along the lines of Mr. Godard's discussion, and General Booth's plan has been put into partial execution in spite of his critics, the proposition to make some sure and uniform provision for old age has taken the stronger hold on public opinion. Though it did not originate in continental thought or policy, the experiment of state insurance in Germany has given it weight. Various methods have been proposed, ranging from the organization of voluntary old age insurance to the state endowment advocated by Charles Booth. In Mr. Wilkinson's and Mr. Spender's monographs these various plans are critically reviewed, and all but the free and uniform pensioning of all persons over sixty-five years of age are dismissed as wholly impracticable for Great Britain. The Englishman, it is argued, will never take kindly to any state-aided system of insurance based on compulsory contributions from wages, and any system without the compulsory feature would be an actuarial failure.

As it is from Mr. Booth's investigations and arguments that the other articles derive their data, criticism must concern itself chiefly with his work. No one could more accurately measure its scientific value than he himself has done in his preface. The argument of the second part is founded on the picture of pauperism in Stepney, which constitutes the first part. This, as Mr. Booth warns his readers, is not a general "or even sufficiently representative" examination of the pauperism of London; still less is it representative for England, though a short description of one country union is given. "It is, therefore, only as a picture that what is here written should be regarded — true as far as it goes and possibly suggestive, but very incomplete." Nevertheless, its qualitative and indicative value is superior to anything of the kind that we have had hitherto. A long chapter is filled with detailed statements of individual cases of pauperism, and the facts thus brought out are classified and tabulated with care. So far as they go, then, they fully warrant the inference that old age is the chief objective factor in pauperism.

In the argument for endowment, two considerations should receive searching examination before the affirmative conclusion is accepted. It is a momentous departure from the traditional policy of English-speaking people to create a legal right to old-age maintenance by the state. What would be the economic and moral effect on that margin of the well-to-do classes which is composed of families whose earnings now place them just above the line of those who would gain exactly as much in old-age pensions as they would lose by new taxation? What would be the reaction on the character of govern-

ment, and its attitude toward individual self-help in general? Can there be any doubt that the benefits which the plan would secure would be paid for by some serious evils in these directions?

Yet Mr. Booth's argument is cogent and fair. He would fix the pension at five shillings a week after the sixty-fifth year. This pension should be paid to every man and woman of that age who is a subject of the kingdom, whether rich or poor, so that no stigma of pauperism could attach to it. The amount of money required to provide such pensions in England and Wales would be £17,000,000 a year, of which £4,000,000 would be saved by the minimizing of out relief under the poor-law, leaving £13,000,000 to be raised by taxation. To a part of the middle class the tax would be only an insurance rate. Another part, and the well-to-do class, would pay more than they would get back in direct return, but they would profit indirectly through the general welfare and the higher standard of life of the wage-earners. A majority of the latter, perhaps one-half of the population, as Mr. Booth estimates, would pay as a class less than their surviving members would receive in pensions; but he believes that their thrift would be greater and that pauperism would be less. Already they provide reasonably well for the risks of the present. They subscribe to sick-funds, organize trade-unions and join building-associations; but they do not provide adequately for old age.

> The claims of the present and of others outweigh the claims of the future and of themselves. Yet this failure to provide for old age reacts adversely on everything else they do to better themselves. The fell influence of the poor-law extends to them. In old age they *may* at last come to the work-house, and this idea, especially as age draws on and savings are most necessary, cannot but be very discouraging.

This is surely a weighty consideration.

FRANKLIN H. GIDDINGS.

Les Bases Économiques de la Constitution Sociale. Par ACHILLE LORIA. Deuxième édition, entièrement réfondue et considérablement augmentée. Traduite de l'Italien sur le manuscrit original par A. BOUCHARD. Paris, Félix Alcan; Turin, Bocca Frères, 1893.—xii, 430 pp.

This is a most remarkable book. In the original Italian edition it made a considerable stir. In its present form it is destined to make far more of a stir; for it is bold and original, and deals with the most fundamental of all questions — that of human progress.

Professor Loria really makes two points: first, that the growth of law, politics and morals is based primarily on economic relations; second, that the evolution of economic relations is the simple working out of one cause—the suppression of free land. These two theses, although intimately associated in the mind of the author, are not necessarily dependent on each other. The one may be true and the other false. As a matter of fact, the two are of very unequal importance. Let us take up first the main thesis.

That economic facts are at the bottom of political changes was already recognized in the seventeenth century by Harrington, and has since then been urged by other writers. But no one, hitherto, has brought to bear upon the alleged connection such profound erudition as that of Loria, or has sought to extend the explanation to so many well known social, legal and religious facts. In the first book we have an explanation of the economic basis of morality. This, while ingenious and interesting, cannot be dissociated from Loria's particular theory of economic evolution itself. It is sufficient, therefore, simply to mention the conclusion — that industrial society, from slavery to the present capitalistic régime, is marked by the existence of a compulsory ethics, in which the natural egoism is kept in check or perverted by terror, religion and public opinion in turn; but that in the industrial society of the future we shall have a system of free ethics, based on the beneficent workings of a spontaneous egoism.

More valuable, because more independent of any preconceived theory of economic progress, is the book which treats of the economic basis of law. Loria shows clearly that law is nothing but compulsory morality; or, in other words, since morality is a reflex of economic life, that law is the sanction given by society to the economic conditions. More particularly, law as a coactive institution is the necessary product of a capitalistic society, *i.e.*, the material means by which private property is protected. Loria shows why the juridical sanction is always at first inadequate, and why all early legal systems are compelled to insist on rigid procedure and formality; why, again, as in the middle ages, so in modern times, we have systematic violations of the legal sanction in the *Camorra* and *Maffia* of Italy and the lynch law of America. In concise but attractive chapters he traces the origin and growth of the Roman and Germanic law. He maintains that economic conditions are the only clue to the development of these systems as well as to the reception of the Roman law in the middle ages and to the recent vicissitudes

of legal conditions. He takes up, one by one, family law, property law, the law of succession, the law of contracts, the law of master and servant and, finally, penal law, and contends that the ultimate explanation is always to be found in economic facts. He thus energetically takes issue with Savigny and the "historical school," who maintain that law is a product of national and racial consciousness. Given like economic conditions, we must have similar legal systems.

The third and chief book is entitled "The Economic Basis of the Political Constitution." The author has ransacked the history of every country and displays an intimate familiarity with the writings of the chief publicists and travellers. He shows how political power has always depended on the growth and form of economic revenue, and he brings out most clearly the struggles between rent and profit (or the landed interest and the moneyed interest) on the one hand, and between these forces conjoined as against the laboring classes on the other. Some of his ideas have become commonplaces in the last decade or two, as, *e.g.*, the economic basis of the whole Roman development, of the French Revolution, and of the nineteenth century struggles in English political life. But many of his interpretations of well-known historical facts are ingenious and interesting to the highest degree. Thus, to speak only of mediæval and modern European history, he finds an economic basis for the migration of the peoples, the crusades, the Reformation, the English Revolution, and numberless other incidents which we have been wont to ascribe to a variety of causes, religious, political and otherwise. Not less interesting is his history of constitutional development, showing that here again democracy is often the mask for oligarchy, and that the present constitutional differences of civilized countries may be ascribed in their main outlines to economic causes.

Amid such a wealth of details it is but natural that the author should sometimes be carried away, and that in his anxiety to establish his main point he should occasionally make indefensible claims. It is not necessary to insist that everything is due directly to economic causes. Economists will indeed be the first to recognize the value of Loria's work, for it is their instinct to welcome whatever enlarges the importance of the study of the economic factors in human life. But even economists must take exception to some of his explanations. The weakest part of the book seems to me the chapters on financial policy, where the growing demand for the income tax, the inheritance tax and progressive taxation is explained as due to the efforts of

the capitalists themselves. But here, as elsewhere (*e. g.*, his explanation of the historical development of taxation), the error lies not in advancing an economic basis for the phenomena, but in positing his peculiar theory of economic progress. Again, while his explanation of the contest between the moneyed and the landed interests is in the main true, the interpretation of contemporary Austrian and German politics is rather one-sided and not reconcilable with what he says in other passages. Finally, while most Americans will subscribe to much of what he says, as that our political parties have really represented varying economic interests, and that slavery was at bottom an economic question, they will be apt to disagree with some of his statements, as that the Northern capitalists in the fifties went over to Democracy because they had become the creditors of the slave-holders.

On the whole, however, we may affirm that the first thesis — the economic basis of the social constitution — has been adequately proven. But unfortunately all through the work we run up against the second thesis — the theory of economic development. This has been expounded by him in his large work, *The Analysis of Capitalistic Society*, and has been fully explained in the POLITICAL SCIENCE QUARTERLY, VII, 258. To sum it up: Originally the land was free and all the people free laborers. As the land became private property, capitalism developed. This means first slavery, then serfdom, then the wages system with wages at a minimum. In the meantime develops the antagonism of profit and rent. Things will go from bad to worse until the ultimate social peace will be found in the social state of the future, based again on free land. This is Loria's analysis. But neither his diagnosis nor his remedy has met with much approval; and to me the one seems as immature and unproven as the other is visionary. But this is not the place to attack his general theory. The book under review can stand without the acceptance of his theory of profits or his Utopia of free land. For the present purposes all that is necessary is to believe in economic evolution in the broad outlines that are accepted by all recent thinkers. Loria's signal contribution is to have traced the connection between this economic evolution and the broader social phenomena. This task he has accomplished with striking success.

Few readers will lay the book aside after having once begun it. And no one will leave the book without feeling that his horizon has been widened, that he has been stimulated in countless ways and that he must revise his opinions on many fundamental points of

history and human progress. The French translation is admirably done. And it is with pleasure that the announcement can be made that an English translation is soon to be undertaken by a young American scholar. If any work of the last decade deserves this distinction it is surely that of the talented and erudite Paduan professor.

EDWIN R. A. SELIGMAN.

La Riduzione delle Ore di Lavoro e i suoi Effetti Economici. By RICCARDO DALLA VOLTA. Firenze, Fratelli Bocca, 1891.—134 pp.

La Législation Internationale du Travail. Par PAUL BOILLEY. Paris, Félix Alcan, 1892.—303 pp.

Guide Pratique pour l'Application de la Participation aux Bénéfices. Par ALBERT TROMBERT. Introduction by CHARLES ROBERT. Paris, Librairie Chaix and Librairie Guillaumin, 1892. —334 pp.

The two most distinctive features of the modern labor-reform movement are the demand for a reduction in the hours of labor and that for a more equitable distribution of the profits of production. The motives and, still more, the methods proposed for accomplishing these ends are as numerous as are the types of mind that essay to originate panaceas and direct social and labor reforms. The two main types may be called the socialistic and individualistic, though there is much crossing between them, and there are numerous varieties included within each type. The attitude taken towards these reform movements will depend very largely upon the subjective influences and particular bent of mind of any person.

In the books before us we have represented only the individualistic type. Two of the authors, Dalla Volta and Boilley, point out the fallacies and criticize the claims of those, especially socialists, who advocate an eight-hour day; while Robert and Trombert present the theory and practice of, perhaps, the most important and valuable individualistic scheme for securing a more equitable compensation to labor.

Dalla Volta, in his *Reduction of the Hours of Labor*, and Boilley, in his *International Legislation of Labor*, cover very much the same ground and, with slight differences, agree in their criticism of the eight-hour day. Both alike point out the contradiction in the claim

that a reduction of the hours of labor will both increase wages and absorb into industries the great army of the unemployed. But while it is the opinion of Dalla Volta that no such absorption would take place, because of the industrial improvements that would follow, M. Boilley, speaking more especially of France, is inclined to think that the present amount of production could not be maintained for want of sufficient laborers.

Both authors are chiefly historical and inductive, and fail to find in experience any argument for a further reduction of the hours of the labor day. The important truth is recognized, and more particularly pointed out by Dalla Volta, that it is logically fallacious to argue from the effects of past to the effects of future reductions, since the argument assumes that industrial conditions remain the same, while it is a notorious fact that they have gone through immense transformations and are still constantly changing. It is freely granted that where hand labor still largely prevails in any industry the shortening of the labor day would have a temporary influence upon wages, and would decrease the number of the unemployed; but, in the end the introduction and improvement of machinery would offset these results, the reduction itself stimulating this industrial change. In its theoretical aspect, at least, the point might have been brought out more clearly by recurring to the law of diminishing returns in connection with the law of substitution. Boilley, on the other hand, shows the absurdity of making the labor day the same in all countries, since the industrial conditions are so different. But, though important, these are familiar facts.

The most characteristic difference between the two authors is in their treatment of the theory of compensation, or the intensity of labor — a difference due to different conceptions of the motives to human activity. To Boilley self-interest is the sole source of human activity. Reducing the hours of labor would involve no increased reward for greater effort on the part of the laborer; therefore, there would follow no greater intensity of labor. This narrow devotion to the principle of self-interest has blinded our French author to that broader comprehension of facts which characterizes the thought of the Italian. The latter views labor in its physiological and psychical aspects, and recognizes the relation between human activity and physiological and psychical exhaustion, the latter showing itself chiefly in relation to attention. Upon the whole, while the differences in the points made by the two authors are slight, Dalla Volta's treatment is broader and more philosophical.

Boilley's criticism of the socialistic arguments based upon scanty statistics is especially sound; and there is not a little truth in his contention that what the laborer wants is not a reduction of the hours of labor but a larger money income, or a larger share of the product; that the real problem is, therefore, to produce a more equitable distribution of the profits. The work of M. Trombert on *Profit Sharing* is an account of the different ways of applying this solution to the above problem. The systems of profit sharing in vogue are classified under nine different heads, according to the basis on which participation is effected: such as wages earned, time of service, merit and importance of position, or some combination of these. The work is purely practical, and aims only to explain the various systems for the special benefit of those who may wish to adopt profit sharing. The number of facts collected and the systematic arrangement render the work well adapted to its purpose. A special study is given in Chapter VII to the "Control of Accounts" — a most difficult and important question — and Chapter VIII contains a quite extensive bibliography of the literature of profit sharing.

M. Robert's "Introduction," of seventy-five pages, deals with the theoretical aspect of profit sharing. The system is not advocated as a good business venture nor as creating an interest and thereby a saving on the part of the laborer. It is, in the eyes of M. Robert, not at all a matter of philanthropy, but simply and solely a matter of justice. That is, a share in profits is the compensation for the risks run by employees — risks of death, mutilation, *etc.* — the counterpart of which is the compensation to capital for its risks. Here, in brief, is the *raison d'être* of profit sharing (page 14).

To criticise the theory here would be impossible, as questions of nomenclature would first have to be settled. Perhaps the most important objection, however, M. Robert himself recognizes when he declares that to apportion profits exactly, according to the two classes of risks, is an insoluble problem. Between "money capital" and "human capital," between a thing and a human being, there is no *tertium aestimationis*, no common term. The author, however, rightly indicates the close relation between ethics and economics, laying stress upon the distinctively human in the consideration of industrial life. Certain it is that the labor problem will never be solved on the purely abstract principles of economics grounded in self-interest. Because human labor is not "inanimate capital," ethical considerations must have their place, and man must be

recognized as, above all, a human and spiritual being, with a distinctive end of his own. Such recognition, in substance, M. Robert gives.

STEPHEN F. WESTON.

Deutsche Wirtschaftsgeschichte. Von KARL THEODOR VON INAMA-STERNEGG. Zweiter Band: *10. bis 12. Jahrhundert.* Leipzig, Duncker & Humblot, 1891. — xii, 518 pp.

It is possible that some future historian of thought may assign to Dr. Inama-Sternegg's *Deutsche Wirtschaftsgeschichte* (appearing with its first volume in 1879, and now with its second) a position in the nineteenth century something like that of Montchrétien's *Traité de l'Économie Politique* in the seventeenth. The two books, widely as they differ in most other respects, have this in common: their titles alone, whatever may be the value of their contents, are important landmarks in science. They both indicate that the time had come for marking off a particular field of inquiry from the larger area in which it had before been included, and both set the example of staking out the lot. Dr. Inama-Sternegg's book, wherein almost for the first time economic history has made its appearance as a more or less independent study, is but a later stage in that process of specialization which earlier led to the rise of political economy.

It is interesting to watch a new study, a fresh academic discipline, coming into existence. It probably touches two or three already established studies; and its first cultivators are commonly men who are already engaged in teaching one of these established studies, and who seem to themselves to be doing nothing but extending the area properly belonging to their own subject. And thus men meet together in a common interest who set out from very different starting-points, and realize with difficulty their new brotherhood. This is what is clearly taking place as to economic history. It is drawing students almost equally from the fields of "pure economics" and "pure history." We are yet in the midst of the process, and it would be unwise to predict the precise result; at present the old "historical" or "economic" training, as the case may be, is still pretty easily discernible in each individual investigator; but there are signs already of an identity of point of view, a community of purpose, which may in no long time do much to obliterate the marks of origin. To Dr. Inama-Sternegg not even Professor Menger would deny the name of economist. Among the most useful parts of his latest volume are those in which he shows how, during the period of

which he is treating, phenomena gradually emerge corresponding to the modern economic categories of rent and profit, capitalist and *entrepreneur*. And indeed, his use of such criteria is so apposite and illuminating as to confirm us in the belief that for the future economic historian a preliminary study of economic theory will always be of utility. It does at any rate provide a standard by the use of which, if only by contrast, the essential characteristics of a period may the more vividly be realized.

Yet such a training has its dangers, and Dr. Inama-Sternegg has not, perhaps, wholly escaped them. Is it unfair to attribute to the deductive bent which the study of economic theory is apt to produce a certain fondness for what is, apparently, purely *a priori* reasoning? I say "apparently"; for as he has abstained of set purpose (page x) from referring to modern writers, it may be that in every point of his argument the author supposes himself to be resting on the solid ground of ascertained fact. A reviewer who is but imperfectly acquainted with the German literature of the subject can only state an impression; certainly it does sometimes look as if our author filled in the gaps in his construction by deductions from current theories which are still far from complete proof. This impression is confirmed by not a few of his quotations from original authorities. He has not cared, he tells us, to "heap up citations," but rather to produce "characteristic passages word for word, and so to give us directly the contemporary expression of the facts." But one cannot help seeing, when we come to look at some of them closely, that though they may mean what Dr. Inama-Sternegg quotes them as meaning, they may mean something else. It would be a tedious business to go through these references here; and all that need be said is that if the author, when he prepares his second edition, will look, for instance, at notes 1 and 2 on page 62, and note 1 on page 85, he will notice that their connection with the text is not obvious.

It is in his treatment of the agrarian organization that his prepossessions are most evident. For the constitutional aspects of his subject he depends, he tells us, on Waitz; hardly realizing that every theory of primitive or mediæval political constitutions already implies some sort of theory of social conditions. Accordingly he assumes throughout "the old social organization of the Germans, which rested upon the association of free men, with equal rights and equal social and economic value" (or "weight"; his words are: "der Genossenschaft gleichberechtigter und gesellschaftlich wie wirthschaftlich gleichwertiger freier Männer." See page 35). Doubt-

less there was a time, in the nomadic or tribal stage, when "the common freemen" were the most important part of the population. But Dr. Inama-Sternegg brings this condition of things well within historic times, and adopts without hesitation that particular view of it hallowed by the term *Markgenossenschaft* (see, *e.g.*, page 222). No doubt when he began to write, about 1878, the mark theory was still in absolute possession of historical circles; and it is still vigorously defended. But its acceptance by our author has certainly rendered it harder for him to give a consistent impression of agrarian progress; at the very time when, as he points out again and again, the characteristic phenomenon was an elevation of the position of the serfs (*e.g.*, page 199), he is still concerned to show the absorption of the "common freeman" (page 38 *seq.*), and the seizure of the *Allmend* (page 207 *seq.*). How strong such prepossessions are, may be shown by the fact that he confirms his statement as to the clearing of the new eastern provinces largely by "simple freemen" ("die Rodung des kleinen freien Mannes," page 7) by citing the grant in 1002 of an "estate" (*praedium*) with the wood adjoining 100 "mansi" to a *miles;* and the further fact that he cites an exchange by a "*nobilis miles*" of an "estate" (*praedium*) in Bavaria with two serf families on it for one in Carenthia with eight serf families, as an example of the voluntary migration of a *simple freeman* (pages 7, 8 and note 2 on page 8).

Now that we have fallen into a mood of adverse criticism, let us have done with the ungracious task as speedily as possible. The book is somewhat disconnected; topics are dealt with at disproportionate length; and there is often an undue air of certitude. Would that we already knew for certain anything like as much as our author seems to suppose! But all these defects cannot prevent our recognizing the work as one of signal importance. It is the first attempt to subject all sides of the economic activity of Germany to scholarly investigation, and to show their inter-relation. In this respect — as taking possession of and defining a territory to be subsequently worked over with more minute and piercing inquiry — he may be compared to his English contemporary, Dr. Cunningham. But, to change the metaphor slightly, if Dr. Cunningham, taking all English history for his province, has been more *extensive* in his methods, Dr. Inama-Sternegg, taking only the middle ages, has been more *intensive;* and on several corners of his smaller field he has done a good deal of the steady plough-drudgery of original investigation.

To the student of English economic history, the work will, probably for many years, be an indispensable companion. It will preserve him from the fault which has detracted from much of the historical writing of the last fifty years — the provincialism which, knowing little of the inner life of other countries and dazzled by the brightness of Parliament, imagines an English development altogether different in kind, as well as in degree and period, from that to be seen elsewhere. It is time that the "comparative method," should begin to be put to its true use.

W. J. ASHLEY.

Military Government and Martial Law. By WILLIAM E. BIRKHIMER, LL.B., First Lieutenant and Adjutant Third U.S. Artillery. Washington, James J. Chapman, 1892. — 8vo, xv, 521 pp.

The terms martial law, military law and military government are employed to denote the three branches into which military government, in the widest sense, may be divided. Military law, in the proper technical sense, is the system of rules, written and customary, to which those who compose the army and navy are specially subject both in peace and in war. With this branch of law the present work is not concerned. It treats of military jurisdiction over the citizens or inhabitants of a country where, in time of war or of civil commotion, the civil authority becomes subordinate to the military. In this aspect it divides military jurisdiction into two branches — military government and martial law. By military government is meant military jurisdiction exercised by the conqueror over territory of the enemy, whether such territory be actually foreign, or foreign in the sense of being inhabited by belligerents in rebellion against the titular government. By martial law is meant the exercise of military rule "over loyal territory of the state enforcing it." The sense in which the word "loyal" is here used is not precisely defined by the author, but in the light of the context it appears to be intended to signify territory whose inhabitants have not formally assumed and been accorded a belligerent standing.

> The enemy territory [he says] over which military government is established may be either without the territorial boundaries of the dominant state, or comprise districts occupied by rebels treated as belligerents within those boundaries. . . . On the other hand, martial law as here considered is purely a domestic fact, being instituted only within districts which, in contemplation of law, are friendly.

To the exercise by the president in time of war of the right to declare and enforce martial law, the author, so far as I am able to discover, sets no limit but the judgment and discretion of that official as to the necessities of the situation.

> The safeguards [he says] against martial law are not found in the denial of its protection, but in the amenability of the president to impeachment, of military officers to the civil and criminal laws and to military law; in the frequent changes of public officers, the dependence of the army upon the pleasure of Congress, and the good sense of the troops.

This responsibility, however, attaches to the abuse of the power, rather than to the exercise of it.

To the people of the United States, who live under a constitutional form of government, it is obvious that the question thus suggested is both first in order and first in importance in any discussion of the subject of martial law. If it be true that, the moment war breaks out, it is within the power of the president, guided by his judgment and discretion, to establish martial law anywhere within the United States and to subject all citizens to military authority, it follows that it is within the power of the president in time of war to suspend any and every provision of the Constitution. If such be the law, the "safeguards" suggested by the author against the abuse of this power must be regarded as practically ineffectual. It would afford but slight satisfaction to a peaceful citizen who, though far from the theatre of war, was locked up on suspicion or condemned by a military commission, to be told that his treatment might, perhaps, at some future time, be shown to have been unjustifiable.

Not only is this question not new in the United States, but, as one that has had an intensely practical aspect, it has been the subject of discussions both full and consummately able. The author very properly says: "It may be assumed without greatly erring that the power to suspend the privilege of the writ of *habeas corpus* and the power to declare martial law are not widely different." Hence in President Lincoln's proclamation of September 24, 1862, declaring martial law, the writ of *habeas corpus* was declared to be suspended in respect of all persons arrested or imprisoned by any military authority. I am not able to discover that the author has given the text of this proclamation, or a full summary of its contents, though (as on page 378) he refers to it. Nor, with one or two exceptions, does he seem to be familiar with the valuable constitutional literature of which it formed the subject. Without undertaking a bibliography

of this literature, I may refer to the papers of Binney, Wharton, Bullitt, Ingersoll, Johnson and Jackson. The pamphlet of B. R. Curtis on *Executive Power* is twice cited, but in both instances the name is given as "R. B. Curtis."

The inversion of the initials of a name is not a vital matter, but in the present case it is merely an example of a general imperfection in the citation of authorities. As the book contains no table of cases or list of authorities, vague and insufficient references at the foot of the page are specially onerous to the reader. Thus on page 3, where the first citation of authority is made, we find "4 Cranch, 211; 4 Wheaton, 453; 9 Howard, 603." The titles of the cases referred to are not given, and if a figure should be wrong the reader would be helpless. On page 22 there is a reference to "Cobbett, p. 110 *et seq.*"; and on the same page we find: "See 'Steps Short of War,' Cobbett, p. 95 *et seq.*" The work here referred to is, doubtless, Cobbett's *Cases on International Law*. In this work there is, at the page mentioned, a chapter entitled "Steps Short of War." Again and again we find merely nominal references to "Maine," to "Bluntschli," and to other writers of more than one book and of books that have gone through more than one edition. We find many citations of "Manual." It is probable that the work referred to is the British *Manual of Military Law*, which the author mentions in his text, page 318. There is a citation of "Manual" at least as early as page 28, and there are others at pages 44, 47, 185, 294, *etc.*

While I deem it to be my duty to advert to these defects, I desire to express my appreciation of the spirit in which the present work was conceived, and of the purpose with which it was written. The author was brought to the consideration of the subjects which he treats while he was in the discharge of official duties, and he undertook the preparation of a treatise with a view to elucidate certain questions which are involved in not a little uncertainty and confusion. The assumption of such a task, with such an object, is worthy of all praise. In the present case the value of the result is impaired by a lack of method, order and precision, both in the division and arrangement of topics and in their discussion. For this reason it is sometimes difficult to follow up a subject and ascertain precisely what conclusion has been reached in regard to it. Should the author hereafter have occasion to revise his work, his efforts should be directed, at least in part, to the casting of his text into a more systematic form.

JOHN BASSETT MOORE.

Betterment, being the Law of Special Assessment for Benefit in America, with some Observations on its Adoption by the London County Council. By ARTHUR A. BAUMANN, B.A. London, Edward Arnold, 1893. — viii, 110 pp.

This little book is divided into three parts, which are of a very unequal value. The first, relating to the law of betterments in America, is little more than a digest of the valuable work on taxation by Dr. Thomas M. Cooley (not Thomas W. Cooley, as the preface has it), with the addition of a few extracts from the municipal code of the city of New York, arranged in order to give a fair idea of the administrative machinery by which special assessments are imposed in that city. The author rightly criticises Judge Cooley for confusing special assessments and the English sewers rates, and points out the fact that the latter are really special taxes; but he himself, in a later portion of his work, falls into the same confusion. Upon one point he has entirely misunderstood Judge Cooley, and that is where he imagines that the judge condemns the practice of estimating the benefits accruing to each lot separately. What Judge Cooley really disapproves, and what is now quite generally held to be unconstitutional, is the practice of charging upon the abutting owner the cost of the particular improvement in front of his lot only, without reference to the benefits along the whole line of the work — in fact, without apportionment. From this misconception, Mr. Baumann has fallen into grievous error. He also fails to distinguish the safeguards thrown about the exercise of eminent domain in our commonwealths from the procedure required in levying special assessments. It is, in most cases, merely an accident that the proceedings for the two operations happen to be joined together.

The second part of the work is simply a statement of the efforts of the London county council to introduce the principle of betterment into London, and, inasmuch as it carries the movement down to the London Improvements Bill of 1893, it will prove valuable to those who may seek information on the subject.

In the third portion of Mr. Baumann's book, upon "The Place of Betterment in the General System of Taxation," he simply denies it any place whatever. To this result he has no doubt been led by his eagerness to combat the schemes of the London county council. He shows satisfactorily that special assessments do not conform to the principle of taxation as generally laid down, and comes abruptly

to the stand "that there is no difference between the principles of imperial and local taxation." As special assessments are confessedly based upon the idea of equivalents and apportioned according to benefits accruing to the owners of land, it would be idle to argue with one who denies the first premise.

There are many minor points upon which the author is open to criticism, as also several mistakes of fact. Among the latter are the statements that special assessments are unconstitutional in Minnesota (page 75), that their constitutionality is still doubtful in Illinois (page 76), that Adam Smith lays down value as the only standard by which taxes can be apportioned (page 81), and that American judges allow special assessments for benefit with reluctance (page 100).

VICTOR ROSEWATER.

The History, Organization and Influence of the Independent Treasury of the United States. By DAVID KINLEY. New York, Thos. Y. Crowell & Co., no date. — 12mo, 329 pp.

Mr. Kinley is a conscientious student, he has a distinctively economic turn of mind, and his book gives promise of usefulness in the career he has chosen; yet it is marred by serious errors, both of fact and of inference.

Let us take an example before going further. The author finds the Independent Treasury to be an obstacle to the nation's progress. It has been shorn of more than half its independence by a provision of law allowing the deposit of a part of the public money in banks. It ought to be shorn of the other half, he thinks, by requiring all the public money to be so deposited under proper safeguards. What shall those safeguards be? In order to answer this question, he inquires what they are now, and answers the latter question on page 258 by saying: "The law permits the Secretary of the Treasury to accept other than United States bonds as security for public deposits." Then he builds not only a new system of public deposits, but a general banking system also, on a deposit of railroad and municipal bonds.

Turning to the law (section 5153, Revised Statutes) which, he says, permits the secretary to accept other than United bonds, the same being printed as an appendix on page 288, we read:

> The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds

and otherwise, for the safe keeping and prompt return of the public money deposited with them. . . .

On page 86 Mr. Kinley says: "The banks were to be allowed to hold public money on providing security by the deposit of United States bonds, *or otherwise*." On page 236 he quotes the words expressly, "government bonds '*and otherwise*'"; but lower down on the same page he says:

> The security required for deposits by the government is within the discretion of the Secretary of the Treasury. . . . The secretary could legally accept other security than United States bonds if he chose, but the custom thus far has been not to do so.

At the foot of this page he refers us to Appendix II, H, which is the law quoted above, being a part of section 5153, Revised Statutes.

If this citation were made for any less purpose than that of an authoritative precedent for the construction of a new system of national finance, it would not be serious. Obviously, the word "and" is not the equivalent of "or" in matters affecting hundreds of millions of dollars. The bill, as originally reported, did not contain the words "and otherwise." How they came to be inserted, the following colloquy, which took place in the House of Representatives, April 2, 1864, will show:

> Mr. HOOPER. I move to amend the 45th section by inserting after the word "bonds," in the eleventh line, the words "and otherwise," so that the clause shall read: "And the Secretary of the Treasury may require of the associations thus designated satisfactory security by the deposit of United States bonds and otherwise for the safe keeping," *etc.*
>
> Mr. HOLMAN. I would inquire of the gentleman what the effect of that amendment is. The security now required of these depositories is the bonds of the United States; the gentleman from Massachusetts proposes to insert the words "or otherwise" after the word "bonds," that is to say, the security shall either be bonds of the government or such other security as the Secretary of the Treasury may require. What other securities does the gentleman from Massachusetts refer to?
>
> Mr. HOOPER. By the present arrangement, or rules of the department, the secretary requires a personal bond in addition to the deposit of United States stock, and it was to cover that point that I offered the amendment.
>
> Mr. STEVENS. The words are "*and* otherwise," not "*or* otherwise."
>
> The amendment was agreed to.

Mr. Kinley begins with a sketch of the second Bank of the United States. This is brief, and is not so good as a brief one ought to be.

He then describes the condition of the country and the operations of the Treasury when it used the state banks as depositories. This chapter is good, and especially that part of it which relates to Tyler's veto of the Bank Bill which had been passed at his own suggestion — a veto which broke the heart of the Whig Party and ruined Tyler himself politically. Yet Mr. Kinley holds that it was fortunate for the country that the bill did not become a law. This is probably true, but the reasons assigned why it was fortunate are not altogether satisfactory. One of the provisions of the bill was that the bank's dealings were to be limited to coin, bullion, notes and inland bills of exchange, no loan to be made for more than six months, and no loan to be renewed. These are certainly among the rules of sound banking, yet Mr. Kinley finds them unsuited to the conditions of an approaching commercial crisis, because they are contrary to the "method of freely discounting at such times that has received the sanction of the experience and the judgment of wise bankers."

As this thought, expressed in much the same language, crops out frequently in Mr. Kinley's book, it challenges examination. We had a crisis and a panic in this country a few months ago. The bankers saw its approach sooner and more clearly than other people did. Then was the time to "discount freely," says Mr. Kinley. Instead of doing so, the banks shut down on all discounts; they became as unyielding as iron. Not only that, but they began to borrow from each other on the security of what they had previously lent to their customers, till the New York banks had $38,000,000 of loan certificates outstanding; and, even then, they were for weeks in a state of semi-suspension. Now, what would have happened if they had pursued the opposite course, and "discounted freely"? "Freely" is an elastic term; but it must be taken to include all the paper that, in the judgment of the bank's officers, is really good. The result would have been that most, if not all, of them would have been wholly closed instead of being half closed, and the community would have suffered far more than it did. Only those would have been saved who obeyed the first law of nature — self-preservation. There are certainly wise and experienced bankers in New York, if anywhere. It would be hard to find any of them who would say that salvation last July was to be found in discounting freely. Perhaps Mr. Kinley would say, on further reflection, that, on the approach of a crisis, the banks ought to discount as freely as they can; but that is a truism. Every banker will tell you that that is exactly what he does.

Space does not permit us to go much into detail. If we should do so we should find more in Mr. Kinley's pages to praise than to blame; for he has brought together a vast deal of information that is scattered through our financial archives and laws, and his conclusions from them, and his running comments, are generally sound. Yet his book, while a *vade mecum* for those who are familiar with the subject treated, is not a safe guide for the uninstructed. It is inordinately spun out. Mr. Kinley has not yet learned the art of condensation. His chapter on "Crises" is extremely nebulous. The book would be improved if this were omitted altogether.

My opinion is that Mr. Kinley's substitute for the Independent Treasury would be worse than the disease. Yet I agree with him that it is a disease, although just now dormant. It is dormant because the Treasury has at present no surplus to hoard, whereby it can draw money from business channels in a stream, to be discharged in a flood. Eventually, we shall have to deal with this evil sternly; but we must remember that governments attend only to the pressing things, and this is not now pressing. It may be found, when the time comes for attending to it, that gauging the public receipts by the public expenditures, annually, will cure the greater part of the evil, besides curing the evil of profligacy which commonly attends a surplus. But there will still be a residue of temporary accumulation of money in the Treasury, which can only be prevented, as other governments prevent it, by depositing in banks.

HORACE WHITE.

RECORD OF POLITICAL EVENTS.

[From May 1 to November 5, 1893.]

I. THE UNITED STATES.

1. National Affairs.

FOREIGN RELATIONS. — The arbitration on the seal fisheries question has by its conclusion fixed finally the principles on which that long-discussed problem is to be settled. Mr. Carter, of counsel for the United States, whose argument was in progress at the opening of this RECORD, finished his address May 2, and was followed by Mr. Coudert on the same side. For Great Britain Sir Charles Russell spoke from the 10th to the 31st of May, and Sir Richard Webster from June 1 to June 7. After arguments by other counsel the pleadings were closed with the address of Mr. Phelps for the United States, covering the sessions from June 22 to July 8. The decision of the arbitrators was delivered August 15, and the court then dissolved. The cases of the respective parties fell under two heads: (1) the question as to the jurisdiction of the United States over sealing outside the three-mile limit; (2) the joint regulations necessary to preserve the seals in case the United States was not accorded the sole jurisdiction. Under the first head the court was required to answer the five questions proposed in the treaty of arbitration (see this QUARTERLY for June, 1891, p. 367). Here the United States put main stress on the fifth question and argued as follows: The law of nations is substantially identical with the law of nature, which itself is founded on the moral sense of mankind. This moral sense condemns the extinction of any species of animal life that contributes largely to the satisfaction of human desires. The fur seal is such a species, and the hunting of this animal on the high sea during the breeding season tends strongly to its extinction. Pelagic sealing, therefore, is contrary to the spirit of the law of nations, and the protection of seal life is demanded by that law. But by whom should that protection be given? The fur seal is not *ferœ naturæ*. Its habits are such that a determined territory can be pointed out as its home, which it never leaves save with the *animus revertendi*. So certainly are the Pribyloff Islands the home of the herd involved in this controversy that a great industry has been built up on this fact and an elaborate system has been devised to insure that the animals shall continue to be available for the good of man. These circumstances stamp the herd with all the characteristics of private property and the United States, therefore, has the right to protect the seals against

all who threaten the herd with destruction, whether the protection is demanded on the land of their *habitat* or in the sea to which they resort temporarily for food. Against this line of argument the British counsel urged that the law of nations is in no sense identical with the law of nature, but consists merely of rules that have been formulated by the definite agreements of nations, and that no rule in relation to seals has been so formulated; that pelagic sealing is not shown by the evidence to be so destructive as is alleged; that the fur seal is clearly *ferœ naturæ*, and not distinguishable by its habits from many other species of migratory animals, in respect to which a claim of property rights by the owner of land to which they temporarily resort for breeding would be ridiculous; and finally, that the assertion of a right of the United States to exercise jurisdiction on the high seas beyond the three-mile limit over citizens of other nations violates one of the most clearly established principles of international law. On the question of regulations, the United States demanded such as should render pelagic hunting practically impossible; Great Britain, merely such as should keep the industry under a moderate degree of restriction. The decision of the court adopted the British view as to jurisdiction and in general the American view as to regulations. On the five questions as to jurisdiction, the judgment was (1) that Russia, having in 1821 claimed jurisdiction over Behring Sea for 100 miles from the coasts of her territory, abandoned that claim in treaties with the United States and Great Britain respectively in 1824 and 1825, and from that time up to the sale of Alaska to the United States never claimed or exercised jurisdiction beyond the ordinary limit; (2) that Great Britain did not recognize any claim of Russia to exclusive jurisdiction over the seal fisheries beyond the ordinary limit; (3) that Behring Sea was included in the term Pacific Ocean as used in the treaty of 1825; (4) that all rights of Russia in the seal fisheries in Alaskan waters passed to the United States by the treaty of cession in 1867; (5) that "the United States have no right to the protection of, or property in, the seals frequenting the islands of the United States in Behring Sea when the same are found outside the ordinary three-mile limit." On (3) and (4) the court was unanimous; on (1) and (2) Senator Morgan dissented; and on (5) the senator was joined in dissent by his colleague, Justice Harlan. The joint regulations for pelagic sealing agreed to by the court included the following: The absolute prohibition of the business within sixty miles of the Pribyloff Islands; a close season from May 1 to July 31 for the high sea north of 35° north latitude and east of the 180th meridian of longitude and the water boundary of Alaska as defined in the cession treaty; the prohibition of the use of any but sailing vessels in the business, each vessel to have a special license and to furnish its government with accurate records of its work; the prohibition of the use of nets, fire-arms or explosives in pelagic sealing, except shot-guns outside of Behring Sea. The court further recommended that the two governments undertake to stop sealing on both land and sea

for a year or more. The regulations as a whole lacked the assent of both the American and one of the British arbitrators, though the objections of these members were not to the same points. As it was decided that the Canadian sealers had a right to pursue their business on the high seas, it became the court's duty to fix the damages sustained by them through the suspension of their business under the *modus vivendi*. The decision on this point has not yet been announced. The claims for damages for seizures of so-called "poachers" by United States vessels prior to the *modus vivendi* are to be settled through the regular diplomatic procedure. — **The Hawaiian situation** has remained practically unchanged throughout the six months under review. Manifestations of sentiment in the islands for and against annexation to the United States and for and against the restoration of royalty have given rise to incidents of ephemeral importance, but the key to the situation was held by Commissioner Blount, who, appointed to the position of United States minister, May 10, threw a decisive influence against every movement likely to disturb the *status quo*, while avoiding every act that would commit the United States to any definite policy save that of protecting its citizens and excluding the influence of other foreign powers. Mr. Blount returned to the United States August 15 and made his report to the Department of State, but the contents of the report have not been made public. — **The extradition treaty with Russia** was promulgated by proclamation of the president, June 5.

THE SILVER QUESTION. — On June 5 President Cleveland publicly declared his purpose to call an extra session of Congress to meet in the first half of September for the consideration of the country's financial conditions, which seemed critical. On the 26th of June the authorities of India closed the mints in that empire to the free coinage of silver. The signs of a panic immediately multiplied and four days later appeared the president's proclamation summoning Congress to meet in extra session August 7. The call was based on the "perilous condition in business circles," which was declared to be largely the result of "a financial policy . . . embodied in unwise laws, which must be executed until repealed by Congress." The issue of this proclamation was the signal for much excitement among the Populists and in silver-producing circles. **Silver conventions** were held in Denver, July 11, and in Chicago, August 2, in which addresses were made and resolutions adopted denouncing with much energy any proposition to repeal the Sherman Act without some provision for the free coinage of silver, and claiming that the existing financial crisis was a deliberately devised scheme of British and American bankers, with President Cleveland as their ally, to bring about the exclusion of silver from use as money. The president's message, presented to the houses August 8, brought **the question before Congress**. The message embodied an exposition of what Mr. Cleveland considered the evils of the Sherman Act, concluding with an earnest recommendation

that its purchase clause be immediately repealed. While still holding that tariff reform was imperatively demanded, the president considered that it should be postponed to action on the silver law. In Congress the silver men, without reference to party lines, took an attitude of energetic resistance to any project for unconditional repeal of the purchase clause. Conferences between the various factions led, however, to an arrangement in the House of Representatives by which the whole question should, after due debate, be determined by a direct vote. On August 11 a bill was introduced by Mr. Wilson, of West Virginia, repealing the purchase clause, but renewing the pledge to maintain the parity of gold and silver coin at the existing or some other ratio. At the same time an order of procedure was adopted, providing for a debate of fourteen days, to be followed immediately by voting, first on amendments establishing free coinage at the present ratio and at ratios running up to 20 to 1, then on the proposition to revive the Bland Act, and finally on the Wilson Bill itself. This program was carried out and the votes were taken August 28. All the amendments were rejected, those proposing free coinage by majorities ranging from 140 on the 17:1 ratio to 101 on the 20:1, and that reviving the Bland Act by a majority of 77. The bill was then passed by a vote of 240 to 110. In the Senate much more serious difficulty arose in seeking to carry out the policy recommended by President Cleveland. The Democratic majority were unable to agree upon a measure which should unite the silver and anti-silver factions. The former insisted upon opposing unconditional repeal of the Sherman Act's purchasing clause. After much caucusing, with unsatisfactory results, Senator Voorhees, chairman of the finance committee, at last introduced a repeal bill, August 18, with a "parity" pledge in more verbose form than that of the Wilson Bill, and with a recommendation of bimetallist policy for the government. The silver men immediately submitted a substitute proposing free coinage of silver at the ratio of 20:1, and on these propositions debate was opened. When the Wilson Bill came up from the House it became the formal subject of the discussion, but no agreement could be reached as to when a vote should be taken. Various plans were suggested for a compromise between unconditional repeal and free coinage, but the attitude of the administration was steadily hostile to any such idea. On the other hand, suggestions as to the introduction of some form of closure in the Senate met little favor. On October 11, when it had become pretty clear that there was a majority for unconditional repeal, Mr. Voorhees asked for a continuous session till a vote should be taken, but after a session of nearly forty hours, occupied by speeches by the silver men and calls of the house, a quorum could no longer be obtained and the Senate adjourned without voting. Attention now became concentrated exclusively upon the possibility of either compromise or closure. While propositions looking to the latter alternative were under serious and heated discussion, a scheme of compromise that proposed making the date of repeal twelve or eighteen months in the future and coining in the interval

all the silver purchased, was accepted by the silver Democrats, and seemed likely to secure enough support to unite the majority party, when the authoritative announcement that the president did not approve the scheme turned the current and the project failed. Thereupon the Democratic silver Senators reluctantly gave up the struggle, October 23, and the remainder of the opposition acknowledged the hopelessness of preventing a vote. The final speeches of the debate were made, the various amendments were voted down by majorities averaging about ten, and on October 30 the Voorhees Bill, having been substituted for the Wilson Bill, was passed by a vote of 43 to 32. The substitute was accepted by the House, 192 to 94, and became law by the president's approval, November 1.

INTERNAL ADMINISTRATION. — The drain upon the Treasury's gold reserve continued during May, and the net reserve at the beginning of June was only $89,939,217. The situation improved considerably during the course of the summer and by August 10 the figure had increased to $103,863,290. In the fall the tendency again changed and according to the statement of October 21 the net reserve was $81,700,000, the lowest on record. — A change of policy in **the purchase of silver** under the Sherman Act was introduced by Secretary Carlisle June 12. The law required the purchase of 4,500,000 ounces per month, "or so much thereof as may be offered at the market price." The Treasury had followed the policy of regarding the lowest price at which bullion was offered as the market price. Secretary Carlisle, finding that this lowest price was frequently higher than the quoted prices in New York and London, adopted the practice of making bids based on those quotations and refusing to accept silver at higher rates. As a consequence the total purchase for July and August fell considerably short of 4,500,000 ounces per month. The secretary defended his policy at length in a letter of October 4 in response to a resolution of inquiry by the House of Representatives. — A report of the condition of the Treasury, October 19, showed a great falling off in revenues for the past three months as compared with the estimates, so that the same rate for the year would give a deficit of $50,000,000. But since the business situation had been so exceptional during the time concerned, the secretary did not consider that a trustworthy forecast for the year was possible. — The enforcement of **the Chinese Exclusion Act** of May 5, 1892 (see this QUARTERLY, VII, 765) was not undertaken seriously by the administration. By the terms of the act all Chinese laborers who had not registered themselves by May 5, 1893, were subject to arrest and deportation. Less than 20,000, out of more than 100,000 in the country, had registered at that date. On May 4 Secretary Carlisle, on the ground of inadequate resources for carrying the law into effect, ordered Treasury officers to refrain from making arrests under the act. On the 25th, after the Supreme Court had sustained the constitutionality of the act, the secretary, in another circular, while continuing in force that of May 4 so far as it applied to Chinese who

had failed to obtain certificates of registration, enjoined particular activity in the enforcement of those provisions which reënacted the old legislation. The federal judges generally found grounds on which to avoid applying the penalties for non-registration, and the net result of the act seems to have been the deportation of a single Chinaman in August from San Francisco. Some hundred or more who had been seized were held in prison pending their appeals to the Supreme Court on the question of their right to the *habeas corpus*. These were released upon the passage of the new act in November (see below, p. 776). — A decision made by the secretary of the interior, May 27, instituted an important **change in pension policy**. Under a ruling of the preceding administration disabilities under the Dependent Pension Act of 1890 had been assimilated in rating to like disabilities of service origin, so that any disability which, if of service origin, would have been rated at over $12 per month, was rated at $12, the maximum allowed by the act of 1890. In considering a case in which $12 had been allowed under this act for "slight deafness," because $15 was the minimum for such disability of service origin, the department declared the earlier ruling untenable. It was held that disabilities under the act of 1890 could not be treated like those of service origin, because an entirely different standard was introduced by that act. Disabilities of service origin were ratable by law regardless of the ability of the pensioners to work, while the act of 1890 referred only to such disability as "incapacitates them from the performance of manual labor in such a degree as to render them unable to earn a support," and directed that the rates should be proportioned between six and twelve dollars according to the degree of such disability. The decision then declared that the earlier ruling had superseded the law, and that the practice of disregarding in the ratings the degree of inability to perform manual labor was illegal. As a result of this decision, and stimulated by the discovery of considerable frauds by pension agents in several parts of the country, a thoroughgoing revision of the lists of pensions under the act of 1890 was inaugurated. It was announced that the maximum rate would not be allowed to any one who was able to do any manual labor, and notices were sent to pensioners whose records did not show *prima facie* evidence of total disability, suspending their pensions and giving them sixty days in which to bring the requisite proof, with the alternative of being dropped from the list. On the 6th of August the time within which proof could be presented was extended to October 10. By the end of August between seven and eight thousand pensions had been suspended, but on the 31st, on the ground that in some cases injustice had been done, Commissioner Lochren ordered a modification in the practice, so that suspensions should be made only on *prima facie* evidence that the pensioner is not entitled to any rating whatever. The policy of the office was changed in another particular by abolishing the practice of giving precedence in the adjudication of claims to those falling under the act of 1890. — **In the Indian Bureau** the contract for the purchase of the

Cherokee outlet was signed May 17, the price being $8,595,736.12. The preparations for opening the territory to settlement were not completed till September 16, on which day, at noon, the thousands of intending settlers who had long been assembled along the borders were permitted by the troops to enter the land. The rush for eligible claims repeated and even exaggerated the scenes which have attended the opening of the other portions of Oklahoma territory. An important change of policy was denoted by President Cleveland's appointment in June of twenty army officers to fill vacancies as Indian agents. — In the matter of **the civil service**, the policy of the new administration has revealed no easily distinguishable difference from that previously followed. The total number of changes in fourth-class post-offices, up to July 4, was 8,956, against 11,100 in the corresponding four months of President Harrison's term. In the consular service, on the other hand, changes had confessedly been made at a more rapid rate than under the previous administration. The secretary of the treasury put in force, July 1, a series of regulations defining a system of promotion in the department service based on records of efficiency and on examinations, either competitive or non-competitive. The pressure of office seekers upon the president became too strong for his patience by May 7, and on that day he issued an order setting forth with considerable distinctness the annoyance he felt at the personal importunities of applicants who came to be presented by Congressmen, and declining for the future all personal interviews with applicants save when he invited them of his own motion.— The following **appointments to office** have been made: Minister Plenipotentiary to Persia, Alexander MacDonald, of Virginia; to Hawaii, James H. Blount, of Georgia, and later A. S. Willis, of Kentucky; to the Netherlands, W. E. Quimby, of Michigan; to Bolivia, C. H. Taylor, of Kansas; to Italy, J. J. Van Alen, of Rhode Island. Assistant Secretary of State, Edwin F. Uhl, of Michigan; First Assistant Postmaster General, Frank H. Jones, of Illinois; Assistant Attorney General, Holmes Conrad, of Virginia; Associate Justice of the Supreme Court, W. B. Hornblower, of New York (not yet confirmed). In response to the action of Germany and Italy in raising the rank of their ministers at Washington to that of ambassador, the president nominated our ministers at Berlin and Rome to be ambassadors.

CONGRESS. — The extra session opened, pursuant to the call of President Cleveland, August 7. The organization of the House of Representatives (for the organization and committees of the Senate, see last RECORD, p. 378) was effected by the reëlection of Mr. Crisp as Speaker, and of the other Democratic caucus nominees for the lesser offices. The speaker announced the committees, August 21, with the following members as chairmen of the most important: Wilson of West Virginia, Ways and Means; Sayers of Texas, Appropriations; Bland of Missouri, Coinage, Weights and Measures; McCreary of Kentucky, Foreign Affairs; Culber-

son of Texas, Judiciary; Springer of Illinois, Banking and Currency. Most interest was excited by the assignment of Mr. Wilson to the head of the Ways and Means Committee, thus superseding Mr. Springer as leader of the majority, and by the retirement of Mr. Holman from his long service as senior Democratic member of the Appropriations Committee. The Rules of the House were adopted September 6. The only important questions in connection with the rules were, first, as to the quorum in committee of the whole, a proposition to make the number a hundred instead of a majority of the House being rejected; and, second, as to filibustering, where the matter was settled by giving the Committee on Rules full control in the matter, as in the last Congress, and further, authorizing the committee to sit while the House is in session. — **The work of the House**, outside of that touching the silver question, described above, included the repeal of the federal election laws, October 10, and the passage, October 16, of a new Chinese Exclusion Bill, defining more exactly the classes to which the last act applies, closing up some avenues of evasion that had been discovered, and extending for six months the period within which laborers may register and obtain certificates. The Ways and Means Committee began in August the preparation of a tariff bill. — **In the Senate**, little was done up to the close of this RECORD beyond the discussion of the silver question. A vote was secured on the status of the persons appointed senators by the governors of Montana and Washington, where the legislatures had failed to elect. On the ground that such failure did not create a vacancy within the meaning of the constitution, it was decided, August 28, by a vote of 32 to 29, that the governors' appointees were not entitled to seats. A bill to authorize national banks to issue notes up to the par value of government bonds deposited was discussed at length, but could not be brought to a vote. This bill was officially approved by Secretary Carlisle, as a safe method of relieving to some extent the financial stringency. The Chinese Exclusion Bill was passed in the form in which it came from the House, November 2. The extra session ended by adjournment on the 3d of November.

THE FEDERAL JUDICIARY. — In the Chinese Exclusion Law cases, May 15, the supreme court held: That the political department of the federal government has authority to expel aliens who have taken no steps to become citizens, even though they are subjects of a friendly power, and have acquired a domicile in this country; that Chinese laborers have no right to remain in this country, except by permission of Congress; that the provisions of the act of May 5, 1892, with reference to registration and deportation, do not contravene the constitutional requirements as to due process of law, trial by jury, and cruel and unusual punishments; and that an act of Congress prevails as against any earlier treaty in conflict with it. — On an application by the United States district attorney for an injunction to prevent the Columbian Exposition at Chicago from opening its gates on Sundays, because the act of Congress appropriating money to aid

the exposition had contained the condition of Sunday closing, it was held by the circuit court of appeals in that city, June 17, that the United States had no such proprietary or possessory interest in the exposition as would warrant interference with or responsibility for its administration, and that Sunday opening involved no such injury to property, or invasion of civil rights, or irreparable injury without redress at law, as is necessary to the exercise of chancery jurisdiction. The order of the lower court granting the injunction was, therefore, revoked.

THE FINANCIAL CRISIS. — The period under review opened in the midst of widespread unsteadiness in financial conditions, with securities on the down grade and pronounced stringency in the money market. During May and June there was no improvement, though at the same time, with the exception of the National Cordage Company, whose fall started the disturbance, and minor concerns outside the financial centers, there were no failures on a scale to lead to a general crash. But the announcement, June 26, that India had stopped the free coinage of silver was followed by an enormous drop in the price of silver bullion, which touched the lowest point ever recorded, the prices of stocks went down in sympathy and by July 1 all the phenomena of a panic were visible. In the mining states of the West the mines were promptly closed, bringing paralysis upon all the leading industries of those regions, and throwing out of employment great numbers of workingmen, who became, especially in Denver, Colorado, a burden on the community and, until facilities were furnished for their transportation to other states, a source of some danger. The banks of the West and South began to give way everywhere under the strain of the money famine, and all over the country manufacturing concerns were forced into bankruptcy, or at least into a suspension of production. Relief to some extent from the pressure for money was found in all the financial centers except Chicago through the issue of clearing-house certificates. The New York bankers began to employ this expedient as early as June 29, and during the summer the total of the certificates issued by them reached the sum of $38,280,000. Boston banks issued $11,045,000 and Philadelphia, $6,000,000. During the latter part of July an evidence of the general distrust and panic appeared in a remarkable dearth of currency. Hoarding was practiced to such a degree that the banks could not secure sufficient cash to meet the ordinary current demands, and were obliged practically to suspend cash payment of depositors' checks. In the early part of August bank and treasury notes commanded a premium of as high as four per cent in New York. By the middle of August the worst of the panic was over and signs of returning confidence began to appear. The premium on currency dwindled away and vanished in the first week of September. Many banks and factories resumed business, though almost invariably, in case of the latter, with reduced wages for the employees. Foreign investors began to send in money to take advantage of the exceedingly low price of stocks, and a less despondent tone pervaded business circles. The banks were able

to call in their clearing-house certificates, though the last of New York's great issue was not redeemed till November 1. Up to the close of this RECORD, however, there was no very pronounced reaction toward prosperity, the uncertainty in respect to silver and tariff legislation being alleged as reasons for the continuing distrust. A most striking characteristic of the panic in general has been the immunity of the great financial centres from overwhelming disasters. Only a single private banking firm of the first rank succumbed in New York City, and but one national bank. Of the 301 bank suspensions from May 1 to July 22, ninety-three per cent were in the Southern and Western states. Some idea as to the dimensions of the crisis may be obtained by the statistics of commercial and industrial failures as compiled by *Bradstreet's*. Failures, April 1 to July 1, 1893, 3,170, with liabilities of $131,436,078; July 1 to October 1, 4,935, with liabilities of $153,227,546. The corresponding figures for 1892 were: failures, April to July, 2,144; July to October, 2,027; with liabilities respectively of $20,673,872 and $20,436,250. Of bank suspensions the total for the year up to September 1 was 549, of which 151 were national banks. At least twenty per cent of the embarrassed institutions were able to resume business as the panic subsided. Three great railway systems were forced into the hands of receivers during the period under review — the Erie, July 25, the Northern Pacific, August 15, and the Union Pacific, October 13.

2. AFFAIRS OF THE STATES.

ELECTIONS. — The closeness of the results in **Rhode Island** in April and the constitutional provision requiring an absolute majority instead of a plurality to elect officers, led to a deadlock in the legislature in May. The Senate was Republican and the House Democratic. By the constitution the two houses were required to meet in grand committee to choose the governor and other state officers in case of a failure to elect in the popular vote. The Senate, objecting to steps taken by the House to insure a Democratic majority in the grand committee, refused to unite with the House for the elections. After a period of wrangling without result, the governor adjourned the legislature till January and continued in office for want of a successor. The only legislation effected was a joint resolution for submitting to popular vote an amendment to the state constitution making a plurality sufficient for a choice in all elections.

VARIOUS LEGISLATION. — On July 1, the Evans Law in reference to the sale of liquor went into effect in **South Carolina.** By its provisions, the liquor traffic became a state monopoly, and, under the supervision of state and county boards, dispensaries were established where alone liquor should be procurable. The law embodies regulations as to the quality of the liquor to be dealt in and the profit to be made on its sale, and prescribes severe penalties to insure that none but the official establishments shall carry on the business. There was much confusion at

first in getting the law into operation, and much passive resistance on the part of the old licensed dealers, but Governor Tillman displayed great energy in its execution. Legal difficulties that arose were in general successfully met, though several sections of the law have been declared unconstitutional by inferior state courts. In September, the state authorities came into controversy with United States officers over a quantity of liquor brought into South Carolina in violation at once of the state and of federal law. On this issue a case has been carried to the United States Supreme Court. — In **Kansas**, the superintendent of insurance put in force, May 23, with a very strict construction, the law recently passed prohibiting any person, agent or corporation not resident in Kansas from placing insurance on property within the state. The reason for the law was that the companies, in cases of disputed claims, were accustomed to carry trials to the federal courts, and the intention was to force the companies to have resident agents, so that the basis of the transfer of the trials should be removed. A number of projects of socialistic character have been reported as under favorable consideration by the Populist administration in Kansas, among others, an employment bureau under governmental conduct, and various railway enterprises. The absence of legislative authorization seems to have prevented the realization of these plans, which are to be brought forward at the next session of the legislature. — The act of the last legislature in **Minnesota**, providing for a great grain elevator at Duluth under governmental management, was rendered practically inoperative by an opinion of the state attorney-general in May, to the effect that the money for building the elevator must come out of the profits of the business done. This interpretation of the law aroused much ill-feeling among the Populists. — The supreme court of **Michigan**, October 24, declared unconstitutional the law passed by the last legislature permitting women to vote at municipal elections. It was held that the constitution did not confer the franchise on women, and the legislature had no right to confer it.

THE RACE PROBLEM. — The relation of the races in the South has been brought into prominence by an apparently steady increase in both the number and the barbarity of lynching incidents. The last summer was characterized by a perceptible increase of lawlessness everywhere in the country, due probably more or less to the financial crisis. Mob executions were by no means confined to the South (a conspicuous case occurred in Denver in July), but that section was responsible for a great majority of such incidents, and in almost all cases the victims were negroes. The offense in the majority of the cases was attempted or successful rape of a white woman. Statistics of cases reported in the newspapers for the year up to September 1 show a total for the country of 142 persons lynched, of whom 129 were lynched in the South, 110 of these being negroes. The first twenty days of September produced twenty-four deaths by lynching in the South, only one victim being a white man. The only case in this section in which the authorities seem to have adopted anything like

adequate measures to enforce the law occurred at Roanoke, Virginia, September 20. Here a mob, attempting to take from jail a negro who had assaulted and robbed a white woman, was dispersed by the militia after a fight in which eight persons were killed and over twenty wounded. On the following day, however, when the soldiers had disbanded, the negro was seized and hanged and his body burned, while the mayor and many militiamen were obliged to leave the place till the resentment of the populace had subsided.

THE TRUSTS. — The Whiskey Trust (Distilling and Cattle-Feeding Company) was greatly weakened by the withdrawal, May 20, of five of the most important concerns in the combination. It was said by officers of the withdrawing companies that one cause of their action was the anticipation that the legal proceedings against the trust under the federal law would prove successful. — The process of winding up the Standard Oil Trust on the plan agreed upon in March, 1892 (see this QUARTERLY, VII, 379), had resulted by September 13, 1893, in the retirement of $60,295,000 of the trust certificates out of a total of $97,250,000 outstanding at the time the process began. — The combination of window-glass manufacturers, after having shut down their works for four months in a struggle over wages with their organized employees, resolved, October 18, to abandon the struggle and give up the attempt to control either prices or wages by joint action.

NECROLOGY. — July 7, Samuel Blatchford, Associate Justice of the United States Supreme Court; September 7, Hamilton Fish, Secretary of State under President Grant.

II. FOREIGN AFFAIRS.

EUROPEAN INTERNATIONAL RELATIONS — No incident of an especially striking character has appeared in this field. Probably of most real importance have been the further steps in the **adjustment of commercial relations.** Spain reached agreements in the middle of August with both Germany and Italy, though the treaties yet lack legislative sanction. Meanwhile, the last *modus vivendi* having expired June 30, her commerce with Germany has been on the basis of special arrangements of a provisional character. Russia concluded a treaty with France for mutual favors in the latter part of June, and opened negotiations with Austria-Hungary in the middle of August. The Russo-German negotiations, which have now been going on for over two years, were not near enough to a conclusion to prevent the outbreak in August of an obstinate tariff war between the two empires. At that time the state of the negotiations was substantially this: Russia had demanded reductions in rates on many of her imports into Germany, especially on grain. Germany's counter-demands had been to some extent conceded, and Russia asked in July for further negotiations by commissioners at Berlin, and meanwhile for a *modus vivendi* till the end of

the year on the basis of existing conventional tariffs on both sides. The former request was conceded and the latter refused by Germany. Thereupon Russia announced the steps described below (p. 793). On August 1 her maximum tariff went into operation, and on the same day a German ordinance imposed an addition of fifty per cent to the regular rates on Russian goods. This was met immediately by an increase of fifty per cent on German imports into Russia. Shortly afterwards Finland, which was excluded from the increased rates by both sides, was brought into the fight. The war was still in full course when on the 2d of October the commissioners met at Berlin to proceed with the negotiations. No result of this work has been announced. — The antipathy between **the French and the Italian populace** was illustrated by the incidents of an affair at Aigues-Mortes, on the French shore of the Mediterranean, August 15 and 16. A dispute between French and Italian laborers developed into a prolonged battle, in which some fifty lives were lost and over a hundred persons were wounded. The Italians were by far the greatest sufferers. After the massacre had been stopped by the military, the mayor of the commune issued a proclamation congratulating the French on their victory. At the same time in many towns of Italy violent demonstrations were made against French officials and residents, and in Rome troops were necessary to protect the French embassy. The two governments adjusted matters diplomatically, however, by suitable expressions of regret for the disturbances, and the responsible officers on each side, including the bellicose mayor of Aigues-Mortes, were suspended from office. — The autumn months have abounded in incidents which have been construed as illustrating the relations of **the Triple Alliance and its foes**. The visit of a Russian fleet to Toulon in the middle of October and the extravagant hospitality, both official and unofficial, accorded to its officers and sailors by the French were supposed to have a special reference to the fact that the German Emperor held the fall manœuvres of his army in Alsace-Lorraine and himself visited Metz and Strasburg, and, moreover, was accompanied there by the Italian crown prince. French press enthusiasm over their counter-demonstration experienced a perceptible shock at the discovery that on the 20th of October, in the very midst of the festivities, the Count of Paris visited Copenhagen and dined there with the Czar, who was at that time the Danish King's guest. At about the same time a part of the British Mediterranean squadron made an official call at Taranto, where the Italians gave it a warm welcome. This incident was construed by the German and Italian press as a demonstration of English sympathy with the Triple Alliance, and a delicate intimation that the appearance of Russia as a Mediterranean naval power in cordial relations with France was duly noted and appreciated in London. At the termination of the Russian fleet's visit to France the Czar, in a despatch thanking President Carnot for the reception given to the sailors, declared that the feeling displayed would "add a new bond to those already uniting the two nations" — an

expression which many interpreted as an acknowledgment of a formal alliance between the two governments. — On May 22, an agreement to restrict for the year 1893 sealing in the North Pacific was entered upon by Great Britain and Russia. The convention ran closely on the lines of the *modus vivendi* between Great Britain and the United States as to Behring Sea (*cf.* this QUARTERLY, VI, 763). — **An International Socialist Congress** met at Zürich, Switzerland, August 6, and remained in session till the 12th. Eighteen different nations were represented by about 400 delegates, of whom 92 were from Germany, 65 from England and 38 from France. After a stormy debate as to whether Anarchists were entitled to sit as delegates, it was resolved that only those should be admitted who approved the promotion of their ends through the exercise of political rights and the machinery of legislation. A proposition recommending, in case of war, a general strike and refusal to do military service was voted down, and instead it was resolved that every effort should be made to spread socialistic ideas among the soldiers. The eight-hour day was approved, and it was declared the duty of every workingman to devote the first of May in each year to agitation for this end. Other resolutions called for better protection and better pay for women-workers, prohibition of night labor, *etc.* The resolution on "tactics" called for the organization of laborers everywhere for the war against the exploiting capitalists, and the employment of political rights for getting possession of political power, while the detailed methods of pursuing these ends should be adapted to the varying circumstances of different lands, always provided that no compromise should be recognized which looked to anything less than a complete social, economic and political revolution.

GREAT BRITAIN AND IRELAND. — The topic of all-absorbing political interest in this kingdom has been the course of **the Home Rule Bill in Parliament.** Against a resolute opposition, maintained without flagging throughout the summer by means of every possible form of parliamentary tactics, Mr. Gladstone succeeded in securing the passage of the bill in the House of Commons just as the summer ended, only to see it thrown out by the Lords a week later. The important points in the **chronology** of the great struggle are as follows: First sitting of the committee of the whole, May 8; after twenty-eight sittings devoted to four clauses (out of the forty clauses and seven schedules of the bill), the government carries an order fixing the times at which votes shall be taken on the remaining clauses, June 30; final votes in committee under this order, July 27; final votes on the report to the House, under a special closure order, August 25; vote on the third reading, September 1; vote on the second reading in the House of Lords, September 8. The government's **majorities** in committee tended generally downward from the forty-three secured on the second reading until the normal figure became about thirty. On the clause providing for a second chamber in the legislative body a number of Radicals joined the opposition

and the government's majority was reduced to fifteen, while a Parnellite amendment making the Irish representation at Westminster the same as at present was rejected by only fourteen votes. On the third reading the vote stood 301 to 267, a majority of thirty-four. In the House of Lords the Unionists adopted the policy of making the rejection of the bill so decisive as to render ludicrous the idea of its passage by the creation of new peers and the vote stood 419 to 41. This total of 460 is the largest vote ever recorded in the Lords, the next largest, 375, having been that on the repeal of the Corn Laws in 1846. The most important **modifications in the bill** made during its discussion were those in respect to the financial clauses and the Irish representation at Westminster. On the latter point Mr. Gladstone announced, July 12, that in deference to what he believed to be the prevalent opinion in the House, he had decided to move the omission of the sections which prohibited the Irish members to vote on questions not directly affecting Ireland. The eighty Irish members were thus left on the same footing as the present members at Westminster. On the financial clauses, the Nationalists succeeded in convincing Mr. Gladstone that under the original arrangement the new Irish government would be confronted at the outset with a deficit. Accordingly he announced, June 22, a new scheme, providing that for six years the existing system of administering the taxation should continue, one-third of Ireland's gross revenue going to the imperial exchequer. The Irish legislative body in the meantime should be authorized to establish new taxes, and at the end of the provisional period a permanent arrangement should be made fixing the Irish contribution and giving to the legislative body the control of all taxes save customs and excises. This new arrangement was carried, despite the opposition of the Parnellites to any prolongation of British control over Ireland's financial administration. The **parliamentary tactics** of the opposition in committee were early construed by the government as obstruction pure and simple, and from the outset the closure was freely resorted to. Even with this, however, progress was very slow and the consequence was the so-called "guillotine" order of June 30. Under the operation of this order, since the opposition persisted in its policy of critical discussion, the vote had to be taken on groups of clauses when many of them had not been debated at all. The opposition made much of the fact that a considerable proportion of the bill had thus been adopted without adequate examination. Great complaint was made on both sides as to the lack of fitness in the chairman of the committee for his task. Partly as a consequence of the general conviction on this point and partly from the tension of spirits inevitable in so prolonged and violent a struggle, the hour of the final vote in committee was signalized by a free fight among members, especially Nationalists and Conservatives, on the floor of the House — an incident said to be unprecedented in the history of the Commons. Upon the rejection of the Home Rule Bill by the upper house, the Unionists called loudly for an immediate dissolution of Parliament and appeal to the electors, but Mr. Gladstone

announced that **the government's program** would be to pass some of the measures which had gone through the first stages in the spring, before taking further steps in the home-rule matter. Accordingly, after routine business Parliament adjourned, September 22, to meet again in November, with the understanding that the Parish Councils and the Employers' Liability Bills would be considered first. Meanwhile the Liberals have tended to concentrate their attention on the position of the House of Lords as the main issue now before the country and thus to strengthen their their following among the Radicals. In a public address at Edinburgh, September 27, Mr. Gladstone made a vigorous attack on the conduct of the Lords, and pointed out the danger they incurred by opposing their irresponsible will to the will of the responsible representatives of the people in the Commons. The Unionists maintain that Mr. Gladstone's majority in the last election was secured on other issues than home rule; that the smallness of the majority indicates that the real sentiment of the electors on the subject is against the measure; that a decisive expression of opinion on the single issue is essential in so important a matter; and that the Lords are, therefore, wholly within the spirit of the constitution in interposing to force a dissolution on that issue. Mr. Redmond, leader of the Parnellite faction of the Irish Nationalists, announced in October that since Mr. Gladstone refused to introduce a bill for the relief of evicted tenants, he and his followers would not support the government in its English business in the approaching session, but would abstain from attendance. Mr. Gladstone's offer to take up the matter of the evicted tenants if the opposition would agree to regard it as non-contentious, was declined by Mr. Balfour. — Parliament reassembled November 2, and proceeded immediately to the consideration of the Parish Councils Bill, on a motion for its second reading. — An extensive **strike of coal-miners** in England and Wales began July 28. The cause was a proposition by the employers for a reduction of wages, on the ground of a great fall in the price of coal. The reduction was resisted by the workmens' organization, which declined a proposition for arbitration, claiming that the existing rate was the lowest at which the miners could live. Over 300,000 men went on strike, affecting practically all the mines in Yorkshire, Lancashire and Wales, but not those in Durham and Northumberland. The diminution in the coal supply interfered very seriously with manufacturing and with the operation of the railways. Late in August the threatening movements of the strikers led to the calling out of considerable bodies of troops in Wales, and during the first half of September serious and destructive riots occurred in the English mining regions, necessitating active military interference. At Featherstone, in Yorkshire, a number of strikers were shot in a conflict with the troops, September 7. By the end of September the suffering among the strikers' families, despite the funds contributed by the Radicals and the philanthropic, became intense, and resumption of work by those who had struck only through sympathy grew common, the Miners' Federa-

tion authorizing this in case the old wages were granted. Negotiations with the mine-owners' association for a reduction were, however, still declined, though the amount of the reduction insisted upon was considerably decreased.

THE BRITISH COLONIES. — The political situation in **Canada** has been characterized by unbroken calm. The Earl of Aberdeen was appointed governor-general in May, to succeed the Earl of Derby, who retired at the death of his father. The Manitoba school question, one legal aspect of which was settled by a judgment of the British Privy Council more than a year ago (see this RECORD for December, 1892, p. 777), has now been brought before the Supreme Court of the Dominion on another issue. The Catholics have appealed to the Dominion cabinet for remedial action, under a clause of the British North America Act which authorizes such an appeal against an act of a provincial authority that affects "any right or privilege of the Protestant or Roman Catholic minority . . . in relation to education." The cabinet resolved, before taking definite action, to submit to the supreme court the question whether, under the circumstances of this special case, the government had a constitutional right to interfere, and this question is now before the court. Sir John Abbott, late premier of the Dominion, died October 30. — The financial crisis in **Australia** was at its height at the opening of the period under review, and the first half of May was a time of utter panic. The great banks of the colonies closed their doors in rapid succession till only three institutions of any importance remained. In Victoria, where the trouble was most acute, the government sought to stay the panic by declaring a bank holiday, May 2–6, but the action had no perceptible good effect. The worst was over by the first of June, and steps were soon taken to reorganize the defunct institutions. In most cases the assets were found sufficient to satisfy depositors eventually in full. As a result of the crisis, the legislature of New South Wales passed a law making notes issued by the banks a first charge on their capital and reserve, and authorizing the government in cases of emergency to make such notes temporarily legal tender. The confederation project has been clarified, first, by the definite refusal of New Zealand to participate in the union, and second, by the government's announcement in New South Wales that a bill to carry out the plan formulated in 1891 will be introduced during the current session of the legislature. The legislature of New Zealand, after a long struggle, has passed a law granting full political rights to women, whether of European or Maori blood. — An event of momentous importance both to the British Empire and to the civilized world in general was the inauguration of **currency reform in India**, June 26, by the order closing the mints to the free coinage of silver. The effects of the depreciation of silver have for several years been felt severely in India (*cf.* this RECORD for June, 1892, p. 388). In the summer of 1892 the Indian government made a definite proposal to the home government that steps should be taken toward a gold standard for India. A committee was there-

upon appointed, with Lord Herschell as chairman, to report to the London authorities upon the plan of the Indian government. The committee's report was submitted last June, endorsing the plan with some modifications, and upon the acceptance of the changes, the Indian government was authorized to publish the order which appeared on the 26th. The principal features of the plan are these: (1) The closing of the mints to free coinage of silver; (2) the retention of the power to coin silver for government account; (3) the assumption of the power by the government to declare that gold coin which is legal tender in England shall be legal tender in India at a rate of not less than 13⅓ rupees for one sovereign; (4) the acceptance of gold at the mints and of sovereigns in payment of public dues at the rate, till further notice, of 16*d.* per rupee. The purpose of closing the mints to silver was declared to be, not so much to raise the gold value of the rupee, as to prevent a further fall in this value. Some perplexity in financial circles was caused during the summer by the uncertainty as to whether the rate of 16*d.* per rupee was to be regarded as absolutely the lowest which the government would recognize. In fact, Council bills were sold at a lower rate, and it was officially declared that 16*d.* was a provisional rate, adopted merely as a price which the government considered it possible, by closing the mints, to maintain. The uncertainty as to what the official rate would ultimately be had a disastrous effect on business and exchange in which India was concerned. — A serious conflict between Hindoos and Mohammedans in Bombay, beginning August 16, was only quelled when considerable bodies of troops had been brought into the city. The cause of the conflict was the perennial religious antipathy of the races, aroused in this case by Hindoo dislike of the killing of cows in the Mohammedan rites. The affair at Bombay was only an unusually conspicuous instance of manifestations that are very common in the rural districts, and that result from the activity of a widespread Hindoo society for the protection of cows. — Sir Henry Norman was appointed in September to succeed Lord Lansdowne as viceroy of India at the expiration of the latter's term with the current year. After accepting, the new appointee withdrew his acceptance, and in October the Earl of Elgin was appointed to the position.

FRANCE. — The later phases of **the Panama scandal** proved as insignificant as the earlier were portentous. On the 15th of June the Court of Cassation quashed the sentences of those who had been convicted of fraud in the management of the company, on the ground that the statute of limitations applied, and the prisoners were released. Of the three convicted of bribery and corruption, two have been set free. The report of the investigating committee appointed by the Chamber was not made public till the middle of June. In the evidence presented was revealed ample proof of the devious methods employed to sustain the bankrupt enterprise, but the committee's conclusions, exculpating the deputies, threw all responsibility for the affair on the directors of the company and the

press. — A Paris newspaper's attempt to raise a new scandal by means of documents alleged to have been stolen from the British embassy, showing large money payments by the British government to leading Radical politicians, was taken up by certain Revisionist deputies in the Chamber, June 22, but was quickly thwarted by proof that the documents were forgeries. — The attention of the Chambers, which continued in session till July 21, was taken up with the budget and other routine business. In view of the dissolution, a resolution was adopted to the effect that bills that had passed the Chamber prior to a dissolution might be sent to the Senate by the new Chamber on the desire of forty members. — During July the Dupuy ministry was able, in connection with two important incidents, to create an impression of greater strength than had hitherto been ascribed to it. The first of these was the **students' and laborers' riots** in Paris. Owing to the interference of the police with a students' procession, disorder arose in the Latin Quarter on the 1st of July, and for several nights conflicts between the students and the police were frequent and serious. Gradually the turbulent element from other quarters joined in the fighting and the students, perceiving this, withdrew. Discontented workmen and socialist agitators sought to propagate the disturbance for ulterior ends, and the night fighting became more desperate. Troops were hurried into Paris from the suburbs and stationed in the disaffected regions, and with their support the police succeeded after a week in restoring order. In the very midst of the trouble the government took the offensive by closing up the labor exchange, a workingmen's headquarters. In the attacks on the government's policy by the Socialists in the Chamber, the ministry was sustained by large votes. When the rioting was over, the ministry withdrew from the extreme positions it had taken, conceded the demand of the students for the dismissal of the prefect of police and permitted the labor exchange to reopen. This action was attributed to considerations based on the approach of the elections. — The second occasion for a show of strength was in the **acquisition of territory from Siam.** Conflicting claims as to a strip on the borders of the French dependency of Anam caused collisions in the early summer between French and Siamese frontier troops on the Mekong River. On the 13th of July two French gunboats, when making their way to the Siamese capital, Bangkok, were fired upon by the forts that defended the city, but after a brief combat proceeded to their destination. This affair resulted from the failure of the ships' commanders to receive dispatches countermanding the orders to proceed to Bangkok. The French foreign minister, M. Develle, nevertheless held that the Siamese were at fault in the attack, and on the 20th sent an ultimatum to Siam demanding immediate recognition of the French territorial claims on the left bank of the Mekong, full satisfaction for the attack on the gunboats and an indemnity for the victims of this and other collisions between the forces of the two powers. Siam's reply, on the 22d, conceded the demands, but with such a construc-

tion of an indefinite expression in the ultimatum as to cede only about half the territory that France expected. Considering the answer unsatisfactory, M. Develle directed the minister at Bangkok to leave the city, and on the 25th diplomatic relations were suspended. A large naval force that had assembled on the coast prepared to enforce a blockade, of which notification was given. It is understood that Great Britain, which had previously refused applications of Siam for support, now protested earnestly against a blockade without a declaration of war, and declined to recognize it as to her own vessels, in which nine-tenths of Siam's trade is carried on. Tension on this point was averted, however, by the complete surrender on the part of Siam, whose government on the 28th acceded without reservation to the terms of the ultimatum, and later to slight additional demands that were made. The resumption of diplomatic relations at Bangkok shortly afterwards terminated the incident. The net result was an important increase of French territory, and the recognition of the Mekong as the boundary between French Anam and Siam, from the frontier of Cambodia northward to a point to be settled by negotiation with the British government, whose Burmese interests are here involved. The territorial gain was hailed with much enthusiasm by all parties in France, and the popularity of the ministry increased correspondingly. — **The elections** were held August 20, with second ballotings September 3. The pope took occasion just before the voting once more to impress upon his spiritual flock the importance of abandoning the Royalist cause. His efforts probably contributed to one of the most striking features of the result — the great losses of the old Monarchic party. Including the Bonapartists, this group can number not more than 60 votes. The Rallied (Catholic Republicans) number about 30. Less than a half-dozen of the Boulangist faction (Revisionists) were elected, and they are merged practically in the Radical-Socialist group. This party numbers something less than 200. The government Republicans number about 290. As between the extreme Right and the extreme Left in combination against the government, it seems probable that the Rallied will hold the balance of power. Among the conspicuous former members who failed of reëlection were Floquet and Clémenceau, of the Radicals, Déroulède and Millevoye, Revisionists, Cassagnac, Bonapartist, and the Comte de Mun, leader of the Rallied. The defeat of Clémenceau excited the greatest interest. He will be succeeded as Radical leader by M. Goblet. — Died: October 17, Ex-President Marshal MacMahon; November 4, Pierre Emanuel Tirard, formerly prime minister.

GERMANY. — The struggle over the Army Bill, which was at its height in the Reichstag at the opening of this RECORD, resulted in the rejection of the bill, May 6, by a vote of 210 to 162. Chancellor von Caprivi immediately announced the dissolution of the Reichstag, and new elections were set for June 15. The conflict in the house had proved very demoralizing to several of the party factions, and the failure of the bill was speedily followed by disintegration of the Radicals and the Centrists. In

each of these groups an influential element had favored a compromise measure which the government had indicated a willingness to accept, but the leaders insisted on opposing and rejecting the bill. As a result, nearly half of the Radicals and a smaller proportion of the Centrists withdrew from the respective parties. The line of cleavage in the Radicals was practically that between the groups which united to form Richter's party in 1884; in the Center the secessionists were chiefly of the conservative element, which has for some time been discontented with the democratic tendencies of the leader, Dr. Lieber. These party dissensions, together with the uncertainty as to the importance of the Anti-Semitic and Agrarian influence among the Conservatives, made **the electoral campaign** extraordinarily complex. Second ballotings, which took place June 24, had to be held in 178 of the 397 districts, and the fate of the government's bill could not be clearly foreseen till the last returns were in. It then appeared that a small majority could be expected for the measure. The most striking features of the result were great gains by the Social Democrats and the Anti-Semites, considerable losses by the Centrists, and the reduction of the Radicals to insignificance. The following gives for the new Reichstag the strength of the leading groups, including the members temporarily attached (*Hospitanten*), with the gain or loss as compared with the situation before the dissolution: Conservatives 68, loss 2; Imperialists 27, gain 9; National Liberals 52, gain 10; Centrists 99, loss 10; Social Democrats 43, gain 7; Richter Radicals 22, Radical Unionists 13, the total for the two divisions showing a loss of 32 as compared with the old Radical group; Anti-Semites 16, gain 11. In round numbers the Social Democrats polled 1,700,000 votes, a gain of 350,000 over 1890, and the Anti-Semites 260,000 votes, a gain of 200,000 over 1890. The agitator Ahlwardt was elected in two constituencies. — **The new Reichstag** met July 4, and the chancellor shortly after introduced the Army Bill in the compromise form known as the Huene Bill. This proposed an increase of force somewhat less in extent than that in the original bill, and embodied other modifications tending to conciliate the Radicals. On the 15th a vote was reached and the bill was passed by 211 to 185, the Conservatives, National Liberals, Radical Unionists, most of the Poles and a few Centrists supporting, while the bulk of the Centrists, the Richter Radicals and the Social Democrats opposed the measure. The Reichstag was then prorogued, with the understanding that the financial bills necessary to carry out the military reforms would be introduced in the fall. Chancellor von Caprivi officially declared, just before the close of the debate on the Army Bill, that the government had no intention of proposing additional taxes on beer, brandy, or food. Since the 8th of August, when the finance ministers of all the states in the empire met in conference at Frankfurt, work has been incessant on the revenue bills that are to be brought in. Dr. Miquel, the Prussian minister, has taken the lead in the business. It is understood that the scheme finally agreed upon

at the end of October involves new imposts on wine and tobacco, with an increase of that on bourse transactions. — The lower house of **the Prussian Landtag** accepted, July 3, the amendments made by the upper house in the last of the long-debated tax-reform bills, and the new system passed into law. The Landtag was prorogued July 5. The term of the lower house having expired, elections were appointed for the first week of November. — A very widespread interest was excited in September by the prospect of a reconciliation between **Bismarck and the Emperor.** The prince having passed through a serious attack of illness at Kissingen early in September, the emperor, on the 19th, sent him a cordial message of congratulation on his convalescence, and offered him the use of one of the royal castles for the winter, that he might avoid the unfavorable climate of Friedrichsruh. Bismarck returned his thanks, but declined the offer on the ground that his accustomed surroundings would, in the opinion of both himself and his physician, be the most likely means of promoting his recovery. With this exchange of despatches the incident closed, to the general regret of the German press and public. — The death of Duke Ernest of Saxe-Coburg-Gotha, August 23, brought to the throne as his successor his nephew, the Duke of Edinburgh, Queen Victoria's second son.

AUSTRIA-HUNGARY. — The Culturkampf in Hungary has continued to occupy public attention throughout the period under review, though the bills embodying the government's policy have not yet been formally considered in the parliament. The bill for establishing freedom of worship for all religious denominations was introduced in the lower house May 17. At the same time the upper house took advantage of the budget debate to vote formal disapproval of the government's policy. The hostility of the Catholic clergy to the proposed measures was manifested in many sporadic outbursts, but the pope's encyclical to the Hungarian bishops at the end of August was unexpectedly mild in tone, and counseled reliance on the king rather than active interference in politics as the true line of deliverance. On September 30, shortly after the opening of the fall session of the parliament, Minister President Wekerle announced that the government's civil marriage bill had been submitted to the crown, whose approval it was hoped would, after the proper examination, be secured. A vigorous attempt of the Apponyi Nationalists to overthrow the ministry was defeated by a good majority, October 10. — The assembling of the Reichsrath, October 10, was followed shortly by the **fall of the Taaffe ministry.** At the outset the government produced a great sensation by the introduction of a bill for the extension of the suffrage. This measure had been prepared by the government without the usual consultation of the party leaders. It gave the franchise to all men who could read and write, and to illiterates who paid any direct taxes or who had performed their military service with special credit. Under the terms of the project the electors would be 44 per cent of the male population instead of 15 per cent as before.

It was supposed that the government's proposition was influenced more or less by a very energetic agitation for universal suffrage that the Socialists carried on during the summer in the Austrian cities. The bill called forth bitter opposition in the Reichsrath, the German-Liberal group considering that its aim was to weaken their representation and increase that of the radical groups in sympathy with the Young Czechs. Count Taaffe was obliged within two weeks to give up hopes of getting a majority for the measure. A vigorous attack on his policy in employing martial law at Prague also weakened his position. The German-Liberal, Polish and Conservative groups formed a coalition for general opposition, and on October 30, Count Taaffe resigned. Prince Windischgrätz was called upon to form a ministry representing the coalition. By November 5 he had apparently succeeded, though it was freely predicted that the ill-assorted cabinet was destined to a short and troubled existence. — An outbreak of unusually **violent demonstrations at Prague** by the Young Czechs was followed by an ordinance, September 13, suspending till further notice the rights of association and reunion, the freedom of speech and of the press, and jury trial in connection with a number of specified crimes. Vigorous action was then taken by the authorities, by suppressing papers, dissolving societies and making domiciliary visits, to put an end to the agitation. — The resumption of gold payments which the government had hoped to effect by November 1, was postponed with the hope that it might take place by the beginning of the new year.

ITALY. — A slight **cabinet crisis** was precipitated, May 19, by the rejection of the budget on the final vote in the Chamber. The adverse vote, 138 to 133, was quite unexpected and was attributed to the dissatisfaction of a number of deputies with the minister of justice. After a reorganization of the ministry, excluding this member and one other, Signor Giolitti secured an overwhelming vote of confidence, May 26, on a declaration that he would stand by his old program. The new members strengthened the cabinet with the Senate and facilitated the passage of the Pension Bill which was in some doubt before. The most important legislation completed was the **reorganization of the banks of issue.** This measure, after long discussion, was passed by large majorities in the Chamber of Deputies July 8, and in the Senate August 9. The law consolidates the joint-stock banks into a single institution, the *Banca d'Italia*, on which, together with the banks of Naples and Sicily, the right of issuing notes is conferred for twenty years. It is then provided that the present circulation shall be contracted, the metallic reserve increased, and the fixed assets be gradually converted into more quickly available form. Limits are set to the circulation and the reserves, and provisions in great detail are made for governmental supervision. The law also provides for the liquidation of the *Banca Romana*, whose failure was the cause of the scandal mentioned in the last RECORD. The criminal proceedings against those concerned in the latter affair have not yet been concluded. — In a

speech at Dronero, October 18, Premier Giolitti dwelt especially on Italy's financial difficulties, and announced as his program, generally economy, together with progressive income and inheritance taxes and the requirement that import duties be paid in coin. — A very serious dearth of small change in Italy led the government to apply to the Latin Coinage Union for the withdrawal of her lesser coins from the terms of the Union. At a meeting of the representatives of the different governments concerned at Paris, in the middle of October, the desired steps were taken. The other governments agreed to withdraw from circulation and on demand return to Italy her share of the small coins of the Union, on condition that she should pay for them in gold and then issue for her own use a paper currency corresponding in amount to the sums withdrawn.

SPAIN. — Señor Sagasta's government has had by no means an easy pathway during the last six months. In parliament it had to deal, in the middle of May, with a policy of obstruction by the Republican deputies that was quite unprecedented in Spain, though familiar elsewhere. A bill to postpone certain municipal elections, on the ground that the Republicans had made preparations which included great frauds in registration, was so stoutly opposed by filibustering tactics, that a continuous session of fifty-four hours, with some sharp practice at the end, was necessary to secure the final vote. In the budget debates, also, the government's progress was so slow that the project was not adopted till about the first of August — a month after it should have gone into effect. The fiscal scheme of the government involved very considerable economies in most of the executive departments, and at the same time a number of new taxes. A contribution to the means of avoiding the perennial deficit was made by the queen-regent through the voluntary sacrifice of a million pesetas of her civil list. The enforcement of the new taxes was not well received by the people, and during August and September many disturbances were reported from the different provinces, in which resistance to the tax-collectors was a leading feature. At San Sebastian, the royal summer residence, a mob that proclaimed its purpose to slay Sagasta and then the king was only subdued by the military after many lives were lost. Republican and socialistic influences were obviously at work to a greater or less extent in all these disorders. — The activity of **the Anarchists** has manifested itself in a number of startling incidents. On the night of June 20 a dynamite bomb was exploded at the residence of the Conservative leader, Canovas del Castillo, and the perpetrators of the outrage were discovered to be members of a band of Anarchists. Even more sensational was the throwing of two bombs at General Martinez de Campos while he was reviewing the troops at Barcelona, September 23. The general's horse was killed and he himself slightly wounded, while a soldier was killed and several soldiers and staff officers severely wounded. A bomb factory in Barcelona was discovered by the police in investigating this affair.

RUSSIA. — A double-tariff system was announced June 25, to go into effect August 1. The existing duties constituted the minimum rates, while the maximum schedule was constructed by the addition of thirty and twenty per cent respectively to the duties on specified commodities. The reason for adopting the new system was declared to be the desire to counterbalance the disadvantage to which Russian agricultural export products were put by the differential rates adopted by the western states of Europe. The finance minister, in conjunction with the minister of foreign affairs, was authorized by imperial decree of July 30 to parallel by ordinance any increase in duties on Russian products by a foreign government. Thus the foundation was laid for the tariff war with Germany. — The Czar officiated in August at the laying of the cornerstone of a great naval harbor at Libau, where the Baltic fleet will be released from the ice blockade much earlier in the spring than has hitherto been the case.

MINOR EUROPEAN STATES. — The work of the Chambers in the **revision of the Belgian constitution** was completed September 2, and on the 9th the new articles went into force. The only serious difficulty that arose during the summer discussions was in reference to the constitution of the Senate and the qualifications of Senators. When it had been agreed that the Senate should consist of 75 members chosen by the electors of the Deputies, and 26 chosen by the provincial councils, the two houses came to a deadlock in the middle of August on the question of eligibility. A ministerial crisis was imminent and the whole work of revision was threatened with failure, when at last, on the 31st, the necessary two-thirds vote of the Chamber was secured for a project involving some slight concession to the more democratic spirit. According to this, the Senators chosen by the electors at large must be forty years of age and must either pay 1200 fr. direct taxes or have an income from real estate of 12,000 fr. (provided the number thus qualified equals one to every 5000 inhabitants); those chosen by the provincial councils are free from all such conditions. — **The Norwegian Radicals** did not persist in their resolution to abstain from legislative activity in consequence of the appointment of a Conservative ministry, as noted in the last RECORD. M. Stang organized a cabinet and proceeded with the administration and the Storthing resumed its sittings. The session, which lasted till July 22, was characterized by a series of decisive measures in the line of the Radicals' aims. A bill was passed directing the removal of the union symbol from the Norwegian merchant flag; a resolution was adopted notifying Sweden that the common consular service would be terminated January 1, 1895; and, as a response to supposed threats of Sweden, the purchase of arms for certain private military companies was authorized. None of these measures received the royal assent, the prime minister frankly assuring the Storthing that the ministers had advised the veto. In the budget the Radical majority manifested their feeling rather more effectively by cutting down the king's civil list by nearly a third, reducing diplomatic appropriations, and making

the consular appropriation conditional on the notification to Sweden of the termination of the common service. The ministry resolved to regard the condition as vitiating the consular grant and so to act as if the appropriation had not been made; but the king accepted the reduction of the civil list. — The elections in **Servia**, following the King's *coup d'état*, resulted in the return to the Skupschtina of 122 Radicals out of 134 members. At the opening of the session, June 16, King Alexander took the royal oath with due ceremony, and in his address from the throne justified his *coup d'état* by a denunciation of the Liberal government which he overthrew. The Radicals, being practically unopposed in the legislature, voted the impeachment of the members of the preceding (Avakumovitch) ministry on various charges of malfeasance, August 16, and a special tribunal of state councilors and judges of appeal was constituted for the trial. The Skupschtina adjourned August 21. In the latter part of October the king rather theatrically proclaimed his reconciliation with the Liberal Party, and announced his conviction that the bad government of the past was due rather to the regents than to the Liberal ministry. About the same time Premier Dokitch resigned on the plea of ill-health. — The amendment of the constitution in **Bulgaria** was completed by the Great Sobranje, which met May 15 and promptly ratified the work of the legislature as described in the last RECORD. The elections for the legislature under the new system were held July 30 and resulted in the return of government supporters in all but nine districts. The new Sobranje assembled October 27. — The hard conditions which had to be complied with in floating a loan in London led to a **ministerial crisis in Greece** in May, in consequence of which Tricoupis was succeeded as premier by Sotiropoulos, with colleagues drawn mostly from the "third party" which stands apart from those led respectively by Tricoupis and Delyannis.

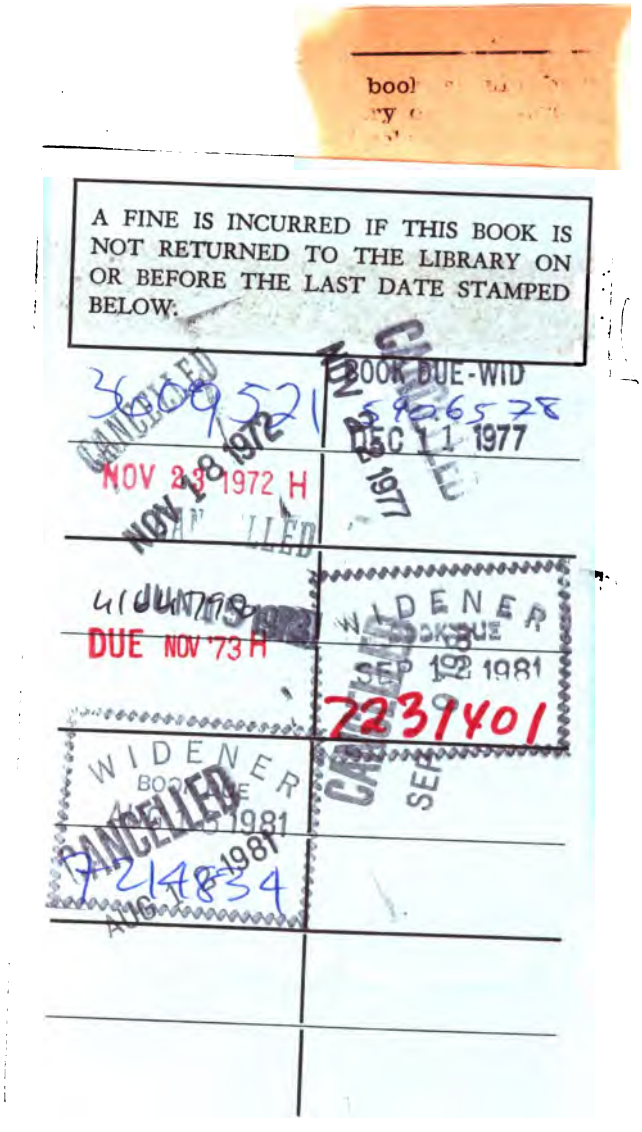
AFRICA. — Conflicts between the European powers and the natives have been numerous during the period under review. Great Britain has had trouble in both Uganda and Zambesia. Her newly-arrived commissioner in the former land effected an adjustment between the Catholic and the Protestant factions in April, by which territorial rights were assigned to each, and the chief political offices were equally divided between them. Then followed in June an uprising of the Mohammedan faction, who were, however, promptly suppressed by the authorities, supported by the united Christian population. More serious was the situation developed in **Mashonaland**, in the territory of the South African Company. The Matabele, a warlike Zulu tribe a little south of the Zambesi, while raiding the peaceful natives near the company's forts in July, were driven off by a detachment of the company's police. For this and other reasons the king, Lobengula, who had been friendly to the British, assumed a hostile attitude, and his soldiers engaged in skirmishing on the frontier. In October, accordingly, the company prepared a strong force, which, with the approval of the home government, entered the Matebele country,

and after some fighting had by November 1 driven the king out of his stronghold, Buluwayo. — In **Dahomey** King Behanzin failed to fulfill his promise to surrender to the French, and General Dodds, after a trip to France, resumed in August his operations against the remnants of the king's forces. — In **Morocco** the building of new fortifications by the Spanish at their penal colony, Mellila, on the northern coast, was the occasion for a desperate attempt of the neighboring Moorish tribes, October 2, to destroy the works and the garrison. The attack was repulsed, but the Moors besieged the citadel held by the Spanish, and Spain, having reinforced the place, proceeded to organize a strong land and naval expedition that should thoroughly subdue the troublesome tribesmen. At the same time a demand was made upon the Sultan of Morocco for satisfaction, though the Sultan's authority over these particular tribes has never been very effective. It was reported that Spain had further demanded the payment of the expenses of her expedition — a demand which would open the way to a conquest of the whole Moorish dominion.

LATIN AMERICA. — Discontent with the administration of President Peixoto has resulted in **civil war in Brazil.** The long-standing insurrection in the state of Rio Grande do Sul gave the government much trouble in the spring and early summer, and the obnoxious governor, Castilhos, against whom the efforts of the malcontents were directed, was at last, in August, forced to resign. In the neighboring state of Santa Catharina, also, a successful popular uprising took place against the officials installed through the influence of the central government. Meanwhile, at Rio Janeiro itself, evidences appeared of opposition to the president. About the first of May, Admiral Wandelkolk of the navy sailed from the capital, and joined the insurgents in Rio Grande do Sul. He was followed and captured, however, by war-ships that remained faithful to Peixoto. On the 6th of September a more formidable defection occurred. Officers of the naval squadron in the harbor of Rio Janeiro, headed by Admiral Mello, formerly minister of marine, declared against Peixoto, and called for his retirement under threat of bombarding the city. As the army remained faithful, the president held his position. Mello carried out his threat, and on the 11th opened fire on the fortifications and public buildings of Rio Janeiro, but failed to gain any important advantage. Since then more or less fighting has been done along the shore, but as Peixoto has no adequate naval force and Mello has little support on land, a decisive conflict has been impossible. In October Mello, having established relations with the insurgents in the southern states was said to have set up a provisional government at Desterro, in Santa Catharina. Peixoto at the same time began the preparation of a naval force by purchasing and equipping a number of cruisers and torpedo boats in New York. — The high personal character of President Saenz Peña, from whom so much was expected, has not prevented a serious Radical **insurrection in Argentina.** The president's pacific dispo-

sition contributed to make his government the plaything of more energetic politicians. A reconstruction of his cabinet, June 8, on the idea of "fusion" of the leading parties, proved wholly unsuccessful, and a month later he was forced to a new reconstruction, with the introduction of a considerable Radical element. The Radicals are an offshoot from the Union Civica (known also, from its leader, as the Mitrist party), which effected the overthrow of President Celman in 1890 (see this QUARTERLY, V, 747). They claim that the revolution then was incomplete and that the influence of the party to which Celman belonged, the Union National (or Roquists) is still too strong in the administration. At the end of July the adherents of the Radical party, apparently with the connivance of ministers, rose against the Roquist state governments in a number of the states of the confederation, and gained considerable successes in several. Intervention by the federal authorities was authorized by the Congress, but it was executed rather in a spirit of sympathy with the insurgents. A new ministerial crisis then ensued, August 14, the Radical element was excluded from the cabinet, and the intervention was carried out in earnest. Thereupon the Radicals planned a general movement for the overthrow of the federal government, but by the prompt proclamation of martial law and corresponding energy in dealing with outbreaks in Buenos Ayres and elsewhere, the authorities were able to preserve their power. — In Central America a **revolution in Nicaragua**, which for thirty years had been free from civil war, broke out April 29. The object was the deposition of President Sacaza. A pitched battle on May 20 resulted in a decisive defeat of the government's troops, and on June 1, under an arrangement effected through the efforts of the United States minister, Sacaza turned over his office to a member of the Senate, Machado. On July 12, however, a fresh revolution broke out against the new government. The president was seized and held by the insurgents, and his place was taken provisionally by Zavalla, who had been the leading spirit in the original uprising. A succession of hard fights were attended by the steady triumph of the new insurgents, and at the end of July peace was made on condition of Zavalla's relinquishment of power. Shortly afterward General Zelayo, leader of the successful party, became president. The insurrection in Honduras, which was in successful progress at the beginning of this RECORD, was crushed by a government victory in the middle of May.

WM. A. DUNNING.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